

City of Stirling

Dog Act 1976

Local Government Act 1995

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DOGS LOCAL LAW 2008

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CONTENTS

Part 1 - Preliminary	1
1.1 Citation	1
1.2 Commencement	1
1.3 Application	1
1.4 Repeal	1
1.5 Definitions	1
Part 2 - Impounding of dogs	3
2.1 Charges and costs	3
2.2 Attendance of pound keeper at pound	4
2.3 Release of impounded dog	4
2.4 Interference with pound.....	4
Part 3 - Keeping of dogs	4
3.1 Dogs to be confined.....	4
3.2 Limitation on the number of dogs	5
Part 4 - Approved kennel establishments	6
4.1 Interpretation	6
4.2 Application for licence for approved kennel establishment	6
4.3 Notice of proposed use	7
4.4 Exemption from notice requirements	7
4.5 When application can be determined.....	8

4.6	Determination of application	8
4.7	Where application cannot be approved	8
4.8	Conditions of approval	9
4.9	Compliance with conditions of approval.....	9
4.10	Fees.....	9
4.11	Form of licence.....	9
4.12	Period of licence	9
4.13	Variation or cancellation of licence.....	9
4.14	Transfer.....	10
4.15	Notification.....	10
4.16	Inspection of kennel	11
 Part 5 - Dogs in public places		11
5.1	Places where dogs are prohibited absolutely.....	11
5.2	Places which are dog exercise areas	12
 Part 6 - Miscellaneous		15
6.1	Offence to excrete.....	15
 Part 7 - Enforcement		15
7.1	Interpretation	15
7.2	Modified penalties	15
7.3	Issue of infringement notice	16
7.4	Failure to pay modified penalty.....	16
7.5	Payment of modified penalty.....	16
7.6	Withdrawal of infringement notice.....	16
7.7	Service	16
 SCHEDULE 1		17
 SCHEDULE 2		18
 SCHEDULE 3		20

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Dogs Local Law 2008

Under the powers conferred on it by the *Dog Act 1976* and under all other relevant powers, the Council of the City of Stirling resolved on 4 November 2008 to make this local law.

Part 1 - Preliminary

1.1 Citation

This local law may be cited as the *City of Stirling Dogs Local Law 2008*.

1.2 Commencement

This local law commences on the 14th day 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

The City of Stirling Local Laws 668 – 686 inclusive, published in the *Government Gazette* on 12 May 1971 are repealed.

1.5 Definitions

In this local law -

“**Act**” means the *Dog Act 1976*;

“**authorised person**” means a person authorised by the City to perform all or any of the functions conferred on an authorised person under this local law;

“**City**” means the City of Stirling;

“**CEO**” means the Chief Executive Officer of the City;

“**dangerous dog**” has the meaning given to it in the Act;

“ dangerous dog ” means a dog which is the subject of a declaration under section 33E declaring it to be a dangerous dog;
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[Section 31 of the Act]

“**district**” means:

- (a) the district of the City under the *Local Government Act 1995*; and
- (b) for the purposes provided in the Act, other areas which although not being within paragraph (a), are regarded for purposes as being part of the district;

“**occupier**” has the meaning given to it in the *Local Government Act 1995*;

Section 1.4 of the *Local Government Act* defines “occupier” to mean:

‘where used in relation to land means the person by whom or on whose behalf the land is actually occupied or, if there is no occupier, the person entitled to possession of the land, and includes a person in unauthorised occupation of Crown land and where under a licence or concession there is a right to take profit of Crown land specified in the licence or concession, means the person having that right’.

“**owner**” has the meaning given to it in the Act;

“**owner**” in relation to a dog means -

- (a) the person by whom the dog is ordinarily kept; or
- (b) a person who is deemed by [section 3(2)] to be the owner of the dog;
[Section 3(1) of the Act]

(Note: section 3(2) of the Act states:

‘(2) A person who is shown in the register maintained by a local government under this Act as being the last person recorded by the local government as the registered owner of a dog is deemed to be the owner of that dog, whether or not the registration in his name continues in force, unless he proves that he is not the owner of the dog’.)

“**person liable for the control of the dog**” has the meaning given to it in the Act;

“**person liable for the control of the dog**” means each of the following –

- (a) the registered owner of the dog;
- (b) the owner of the dog;
- (c) the occupier of any premises where the dog is ordinarily kept or ordinarily permitted to live; or
- (d) a person who has the dog in his possession or under his control,

but does not include –

- (e) a registered veterinary surgeon, or a person acting on his behalf, in the course of his professional practice; or
- (f) a police officer or other person acting under statutory duty or in the administration of this Act;

[Section 3(1) of the Act]

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

“**premises**” has the meaning given to it in the Act;

“premises” shall, for the purpose of determining who is the occupier, be taken to refer to any land or building, or part of any land or building, that is or is intended to be occupied as a separate residence from any adjacent tenement;

[Section 3(1) of the Act]

“Regulations” means the *Dog Regulations 1976*;

“restricted breed dog” has the meaning given to it in regulation 3 of the *Dog (Restricted Breeds) Regulations (No. 2) 2002*;

Regulation 3 of the *Dog (Restricted Breeds) Regulations (No. 2) 2002* defines ‘restricted breed dog’ to mean:

‘a dog of any of the following breeds —

- (a) dogo Argentino;
- (b) fila Brasileiro;
- (c) Japanese tosa;
- (d) American pit bull terrier;
- (e) pit bull terrier; or
- (f) any other breed of dog the importation of which is prohibited absolutely by the *Customs (Prohibited Imports) Regulations 1956* of the Commonwealth,

and includes any dog of a mixed breed which visibly contains any of the above breeds.’

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

Section 1.4 of the *Local Government Act 1995* defines ‘thoroughfare’ to mean:

‘a road or other thoroughfare and includes structures or other things appurtenant to the thoroughfare that are within its limits, and nothing is prevented from being a thoroughfare only because it is not open at each end’.

“town planning scheme” means a town planning scheme made by the City under the *Planning and Development Act 2005*.

Part 2 - Impounding of dogs

This Part should be read in conjunction with section 29 of the Act, which is headed “Power to seize strays, etc”.

2.1 Charges and costs

The following are to be imposed and determined by the City under sections 6.16 - 6.19 of the *Local Government Act 1995* -

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

- (c) the costs of the destruction and the disposal of a dog referred to in section 29(15) of the Act.

2.2 Attendance of pound keeper at pound

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

2.3 Release of impounded dog

- (1) A claim for the release of a dog seized and impounded is to be made to the pound keeper or in the absence of the pound keeper, to the CEO.
- (2) The pound keeper is not to release a dog seized and impounded to any person unless that person has produced, to the satisfaction of the pound keeper, satisfactory evidence -
 - (a) of her or his ownership of the dog or of her or his authority to take delivery of it; or
 - (b) that he or she is the person identified as the owner on a microchip implanted in the dog.

2.4 Interference with pound

A person who -

- (a) unless he or she is the pound keeper or a person authorised to do so, releases or attempts to release a dog from a pound; or
 - (b) destroys, breaks into, damages or in any way interferes with -
 - (i) any pound; or
 - (ii) any vehicle or container used for the purpose of catching, holding or conveying a seized dog,
- commits an offence.

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

Part 3 - Keeping of dogs

3.1 Dogs to be confined

- (1) An occupier of premises on which a dog is kept must -
 - (a) cause the portion of the premises on which the dog is kept to be fenced or walled in a manner capable of confining the dog;
 - (b) ensure that the fence or wall used to confine the dog and every gate or door in the fence or wall 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 or wall is kept closed at all times when the dog is on the premises;
- (d) ensure that every gate or door in the fence or wall is fitted with:
 - (i) a proper latch attached to the gate or door on the side of the fence or wall where the dog is normally kept;
 - (ii) an efficient self closing mechanism; and
 - (iii) a latch or other means which allows the gate to be locked;
- (e) maintain the fence or wall and all gates and doors in the fence or wall in good order and condition; and
- (f) 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.

(2) An occupier who fails to comply with subclause (1) commits an offence.

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

3.2 Limitation on the number of dogs

- (1) This clause does not apply to premises which have been -
 - (a) licensed under Part 4 as an approved kennel establishment; or
 - (b) granted an exemption under section 26(3) of the Act.
- (2) The limit on the number of dogs which may be kept on any premises is, for the purpose of section 26(4) of the Act, 2 dogs over the age of 3 months and the young of those dogs under that age.

Note: section 26 of the Act states:

26. Limitation as to numbers

- (1) The provisions of this Part shall not operate to prevent the keeping on any premises of 2 dogs over the age of 3 months and the young of those dogs under that age.
- (2) Subject to subsection (1), a local government, pursuant to local laws, may limit the number of dogs over the age of 3 months, or the number of such dogs of any specified breed or kind, that may be kept on any premises situate in a specified area to which those local laws apply unless those premises are licensed as an approved kennel establishment or are exempt.
- (3) Where by a local law under this Act a local government has placed a limit on the keeping of dogs in any specified area but the local government is satisfied in relation to any particular premises that the provisions of this Act relating to approved kennel establishments need not be applied in the circumstances, the local government may grant an exemption in respect of those premises but any such exemption —

<p>(a) may be made subject to conditions, including a condition that it applies only to the dogs specified therein;</p> <p>(b) shall not operate to authorise the keeping of more than 6 dogs on those premises; and</p> <p>(c) may be revoked or varied at any time.</p> <p>(4) Subject to the provisions of subsection (3), a person who keeps on any premises, not being premises licensed as an approved kennel establishment, dogs over the age of 3 months in numbers exceeding any limit imposed in relation to those dogs by a local law made under subsection (2) commits an offence.</p> <p>Penalty: \$1 000 and a daily penalty of \$100.</p> <p>(5) Any person who is aggrieved —</p> <p>(a) by the conditions imposed in relation to any exemption from the provisions of a local law placing a limitation on the number of dogs that may be kept on any premises; or</p> <p>(b) by the refusal of a local government to grant such an exemption, or by the revocation of an exemption,</p> <p>may apply to the State Administrative Tribunal for a review of the decision.</p> <p>(6) An application under subsection (5) cannot be made later than the expiry of a period of 28 days after the day on which a notice of the decision is served on the person affected by that decision.</p> <p><u>Note:</u></p> <p>Regulation 13(1) prescribes a modified penalty of \$100 under section 26(4) for “Keeping more than prescribed number of dogs.”</p> <p>If this modified penalty is to be imposed under the Regulations, the procedures contained within regulation 13 of the Regulation must be complied with.</p>

Part 4 - Approved kennel establishments

4.1 Interpretation

In this Part and in Schedule 2 -

“**licence**” means a licence to keep an approved kennel establishment on premises;

“**licensee**” means the holder of a licence;

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

“**transferee**” means a person who applies for the transfer of a licence to her or him under clause 4.14.

4.2 Application for licence for approved kennel establishment

An application for a licence must be made in the form set out in Schedule 1, and must be lodged with the City together with –

- (a) a site plan of the premises showing the location of each of the kennels and yards and all other buildings, structures and fences;
- (b) plans and specifications of the kennel establishment;
- (c) copies of the notices to be given under clause 4.3;
- (d) 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 City, sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare;
- (e) a written acknowledgement that the applicant has read and agrees to comply with any code of practice relating to the keeping of dogs nominated by the City; and
- (f) the fee for the application for a licence referred to in clause 4.10(1).

4.3 Notice of proposed use

- (1) After lodging an application for a licence, the applicant for the licence must give notice of the proposed use of the premises as an approved kennel establishment –
 - (a) once in a newspaper circulating in the district; and
 - (b) to the owners and occupiers of any premises adjoining the premises.
- (2) A notice 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 City.
- (3) Where –
 - (a) a notice given under subclause (1) does not clearly identify the premises; or
 - (b) a notice given under subclause (1)(a) is of a size or in a location in the newspaper which, in the opinion of the City, would fail to serve the purpose of notifying persons of the proposed use of the premises,

then the City may refuse to determine the application for a licence until the notice 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) a use which the City may approve subject to compliance with specified notice requirements,

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

4.5 When application can be determined

An application for a licence is not to be determined by the City until -

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

4.6 Determination of application

In determining an application for a licence, the City is to have regard to –

- (a) the matters referred to in clause 4.7;
- (b) any written submissions received within the time specified in clause 4.3(2)(a) on the proposed use of the premises;
- (c) any economic or social benefits which may be derived by any person in the district if the application for a licence is approved;
- (d) the effect which the kennel establishment may have on the environment or amenity of the neighbourhood;
- (e) whether the approved kennel establishment will create a nuisance for the owners and occupiers of adjoining or neighbouring premises; and
- (f) whether or not the imposition of and compliance with appropriate conditions of a licence will mitigate any adverse effects of the approved kennel establishment identified in the preceding paragraphs.

4.7 Where application cannot be approved

The City cannot approve an application for a licence where -

- (a) an approved kennel establishment cannot be permitted by the City on the premises under a town planning scheme; or
- (b) an applicant for the licence or another person who will have the charge of the dogs will not reside on the premises, or, in the opinion of the City, sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare.

4.8 Conditions of approval

- (1) The City may approve an application for a licence subject to all or any of the conditions contained in Schedule 2 and to such other conditions as the City considers appropriate.
- (2) In respect of a particular application for a licence, the City may vary any of the conditions contained in Schedule 2.

4.9 Compliance with conditions of approval

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

Penalty: Where a dog involved in the contravention is a dangerous or restricted breed dog, \$2,000 and a daily penalty of \$200; otherwise \$1,000 and a daily penalty of \$100.

4.10 Fees

- (1) On lodging an application for a licence, the applicant is to pay a fee to the City.
- (2) On the issue or renewal of a licence, the licensee is to pay a fee to the City.
- (3) On lodging an application for the transfer of a valid licence, the transferee is to pay a fee to the City.
- (4) The fees referred to in subclauses (1) to (3) are to be imposed and determined by the City under sections 6.16 - 6.19 of the *Local Government Act 1995*.

4.11 Form of licence

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

4.12 Period of licence

- (1) The period of effect of a licence is set out in section 27(5) of the Act.
- (2) A licence is to be renewed if the fee referred to in clause 4.10(2) is paid to the City prior to the expiry of the licence.
- (3) On the renewal of a licence the conditions of the licence at the time of its renewal continue to have effect.

Note: section 27(5) of the Act states:

‘A licence under this section has effect for a period of 12 months, and is renewable upon payment of the prescribed fee, but may be cancelled at any time by the City if the City is dissatisfied with the conduct of the establishment.’

4.13 Variation or cancellation of licence

- (1) The City may vary the conditions of a licence.
- (2) The City may cancel a licence –
 - (a) on the request of the licensee;

- (b) following a breach of the Act, the Regulations or this local law; or
 - (c) if the licensee is not a fit and proper person.
- (3) The date a licence is cancelled is to be, in the case of –
- (a) paragraph (a) of subclause (2), the date requested by the licensee; or
 - (b) paragraph (b) or (c) of subclause (2), the date determined under section 27(6) of the Act.

Note: section 27(6) of the Act states:

‘The cancellation of a licence under this section shall be effected by the service of a notice on the licensee specifying a period at the end of which the licence is cancelled, which shall be a period of not less than 3 months.’

- (4) If a licence is cancelled the fee paid for that licence is not refundable for the term of the licence that has not yet expired.

4.14 Transfer

- (1) An application for the transfer of a valid licence from the licensee to another person must be –
- (a) made in the form determined by the City;
 - (b) made by the transferee;
 - (c) made with the written consent of the licensee; and
 - (d) lodged with the City together with –
 - (i) written evidence that either the transferee or another person who will have the charge of the dogs will reside on the premises or, in the opinion of the City, sufficiently close to the premises the subject of the licence so as to control the dogs and so as to ensure their health and welfare; and
 - (ii) the fee for the application for the transfer of a licence referred to in clause 4.10(3).
- (2) The City is not to determine an application for the transfer of a valid licence until the transferee has complied with subclause (1).
- (3) The City may approve, whether or not subject to such conditions as it considers appropriate, or refuse to approve an application for the transfer of a valid licence.
- (4) Where the City approves an application for the transfer of a valid licence, then on the date of approval, unless otherwise specified in the notice issued under clause 4.15(b), the transferee becomes the licensee of the licence for the purposes of this local law.

4.15 Notification

The City is to give written notice to -

- (a) an applicant for a licence of the City’s decision on her or his application;
- (b) a transferee of the City’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 of 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 paragraph (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.

Note: section 12A of the Act states:

‘Entry of premises

- 12A. (1) With the authority of a warrant, an authorised person, and any other person named in the warrant, may enter and inspect any premises for any purpose relating to the enforcement of this Act.
- (2) If he is satisfied that there are reasonable grounds for doing so, a Justice of the Peace may issue a warrant for the purpose of subsection (2).’

Part 5 - Dogs in public places

5.1 Places where dogs are prohibited absolutely

- (1) Subject to section 8 of the *Act* and s66J of the *Equal Opportunity Act 1984* dogs are prohibited absolutely from entering or being in any of the following places –

Amended
GG No. 64
15/4/11

- (a) a public building, unless permitted by a sign;
- (b) a theatre or picture gardens;
- (c) premises or a vehicle, classified as food premises or a food vehicle, under the *Health (Food Hygiene) Regulations 1993*;
- (d) a public swimming pool;
- (e) a public toilet block or changing room;
- (f) the following, reserves -

- (i) the Cottonwood Crescent Nature Reserve, at 48 Cottonwood Crescent, Dianella; and
 - (ii) all of Reserve 12992 (beach and coastal reserve) except as provided in clause 5.2(1)(b);
 - (g) an area within the high water mark, bed or water body of a lake, pond, river, creek, stream or water channel on City property;
 - (h) an area set aside by a wall, fence, sandpit or other softfall surface as a children's playground and;
 - (i) a construction, building or demolition site, unless tethered or otherwise constrained within the site.
- (2) If a dog enters or is in a place specified in subclause (1), every person liable for the control of the dog at that time commits an offence.

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

Note: section 8 of the Act states:

‘8. Special provisions for guide dogs

- (1) Notwithstanding anything contained elsewhere in this Act or in any other Act, regulation, local law or by-law a person who is blind or partially blind –
 - (a) is entitled to be accompanied by a dog *bona fide* used by him as a guide dog, in any building or place open to or used by the public, for any purpose, or in any public transport; and
 - (b) is not guilty of an offence by reason only that he takes that dog into or permits that dog to enter any building or place open to or used by the public or on any public transport.
- (2) The provisions of subsection (1) shall also apply to any person who is *bona fide* engaged in the training of a guide dog.
- (3) The Minister may in writing authorize a named person accompanied by a specified dog to enter and be in any building or place open to or used by the public for any purpose, or in any public transport, and, notwithstanding anything in this Act or any other written law, a person acting in accordance with that authority is not guilty of an offence by reason only that he takes that dog into or permits that dog to enter any such building, place or transport.
- (4) An authority under subsection (3) may be given subject to such conditions and limitations as the Minister thinks fit, and may at any time be amended or revoked by him.’

5.2 Places which are dog exercise areas

- (1) Subject to clause 5.1, for the purposes of sections 31 and 32 of the Act, the following are dog exercise areas –
 - (a) all parks and reserves under the care, control and management of the City except for Reserve 12992 (beach and coastal reserve);
 - (b) the following portions of Reserve 12992 (beach and coastal reserve) -

- (i) between the southern boundary of the district and a line 200m due north of and parallel to that boundary;
 - (ii) between the prolongation of a line west of the southern side of Kathleen Street to the prolongation of a line west of the northern side of Bennion Street; and
 - (iii) between the prolongation of a line west of the southern side of Castle Street to the prolongation of a line west of the northern side of Margaret Street.
- (2) Subclause (1) does not apply to –
- (a) an area within 5 metres of the edge of a playing field being used for sporting or other activities, as permitted by the City, during the times of such use;
 - (b) an area within 5 metres of the edge of children’s playing equipment or apparatus if it is not located within an area described in clause 5.1(1)(h);
 - (c) a car park, thoroughfare, access way or right of way;
 - (d) the Stirling Civic Gardens: being Reserve Lot no 16446 and bounded by the Mitchell Freeway, Cedric St, and Telford Crs, Stirling;
 - (e) Albert James Reserve: 76-82 Short St, Joondanna;
 - (f) Herdsman Lake Regional Park: generally bound by Jon Sanders Drive, Pearson St, Stephenson Avenue road reserve, Parkwater Gardens, Bishop Riley Way, The Foreshore, The Lane, Halcyon Way, Lakeside Rd, the southern boundary of the suburb of Herdsman, Moondine Drive, and the eastern boundary of the suburb of Herdsman, and
 - (g) Scarborough Beach Reserve: bounded by The Esplanade, Reserve Street, Brighton Road and the eastern boundary of Reserve Number 12992.

Amended GG No. 64 15/4/11

Note: sections 31 and 32 of the Act state:

‘31. Control of dogs in certain public places

- (1) A dog shall not be in a public place unless it is –
 - (a) held by a person who is capable of controlling the dog; or
 - (b) securely tethered for a temporary purpose,
 by means of a chain, cord, leash or harness of a sufficient strength and not exceeding the prescribed length.
- (2) A dog is exempt from the requirements of subsection (1) if –
 - (a) it is an area specified by a local government under section 51 as a dog exercise area;

- (b) it is in a public place in an area of the State that is outside the metropolitan region or a townsite;
 - (c) it is in or on a vehicle or boat;
 - (d) it is being exhibited for show purposes;
 - (e) it is participating in an obedience trial or classes conducted under the auspices of the body known as the Canine Association of Western Australia (Inc.) or a body approved by the local government in whose district the obedience trial or classes are conducted;
 - (f) it is registered as being *bona fide* used in the droving or tendering of stock and is being so used or is going to or returning from a place where it will be, or has been, so used;
 - (g) it is a foxhound in a registered pack *bona fide* engaged in hunting or hound exercise or in going to or returning from a place where it will be, or has been, so used; or
 - (h) it is being used for retrieving, duck hunting or other customary sporting purposes.
- (3) If a dog is at any time in any public place in contravention of subsection (1) every person liable for the control of the dog at that time commits an offence against that subsection unless he establishes a defence under section 33B.

Penalty: Where the dog is a dangerous dog, \$4 000; otherwise, \$1 000

32. Control of dogs in exercise areas and rural areas

- (1) A dog, not being a greyhound, shall not be in —
- (a) an area specified by a local government under section 51 as a dog exercise area; or
 - (b) a public place in an area of the State that is outside the metropolitan region or outside a townsite,
- unless section 31(1) is complied with or a competent person is in reasonable proximity to the dog.
- (2) A person is a competent person for the purposes of subsection (1) only if —
- (a) he is a person who is liable for the control of the dog;
 - (b) he is capable of controlling it; and
 - (c) he is carrying and capable of attaching to the dog for the purpose of controlling it, a chain, cord, leash or harness of sufficient strength and not exceeding the prescribed length.
- (3) The exemptions in section 31(2) (other than paragraphs (a) and (b)) also apply for the purposes of subsection (1).
- (4) If a dog is at any time in any place in contravention of subsection (1) every person liable for the control of the dog at that time commits an offence against that subsection unless he establishes a defence under section 33B.

Penalty: Where the dog is a dangerous dog, \$4 000; otherwise, \$1 000.

- (5) A local government must specify under section 51(bb) such dog exercise areas as are, in the opinion of the local government, sufficient in number, and suitable, for the exercising of dogs in the district.’

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.

Penalty: \$2000.

- (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 third column of Schedule 3 directly opposite an offence is the modified penalty payable in respect of that offence if -
- (a) the dog is not a dangerous or restricted breed dog; or
 - (b) the dog is a dangerous or restricted breed dog, but an amount does not appear in the fourth column directly opposite that offence.
- (3) The amount appearing in the fourth column of Schedule 3 directly opposite an offence is the modified penalty payable in respect of that offence if the dog is a dangerous or restricted breed 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 7 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 City the amount of the penalty, with or without a reply as to the circumstances giving rise to the offence, and the City may appropriate that amount in satisfaction of the penalty and issue an acknowledgment.

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 8 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 City under the Act, or as ascertained from inquiries made by the City.

SCHEDULE 1

(clause 4.2)

Dogs Local Law 2008

Application for a licence for an approved kennel establishment

I/we (full name)

of (postal address)

(telephone number)

(facsimile number)

(E-mail address)

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

.....

For (number and breed of dogs)

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

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

..... (insert address of residence)

on and from (insert date).

Attached are -

- (a) a site plan of the premises showing the location of each of the kennels and yards and all other buildings, 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

(clause 4.8(1))

Conditions of a licence for an approved kennel establishment

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

- (a) each kennel, unless it is fully enclosed, must have a yard attached to it;
- (b) each kennel and each yard must be at a distance of not less than -
 - (i) 25m from the front boundary of the premises and 5m from any other boundary of the premises;
 - (ii) 10m from any dwelling; and
 - (iii) 25m from any church, school room, hall, factory, dairy or premises where food is manufactured, prepared, packed or stored for human consumption;
- (c) each yard for a kennel must be kept securely fenced with a fence constructed of link mesh or netting or other materials approved by the City;
- (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 City;

- (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 City;
- (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 City;
- (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 authorized 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 City, sufficiently close to the premises so as to control the dogs, and so as to ensure their health and welfare.

SCHEDULE 3

(clause 7.2)

Amended
GG No. 64
15/4/11

Offences for which modified penalties apply

Offence	Nature of offence	Modified penalty \$	Dangerous or Restricted Breed Dog Modified Penalty \$
2.4(a)	Releasing or attempting to release a dog from a pound	200	400
2.4(b)	Interfering with any pound or vehicle used for the purpose of catching, holding or conveying dogs	200	400
3.1	Failing to provide means for effectively confining a dog	100	200
4.9	Failing to comply with a condition of a licence	100	200
5.1(1)(i)	Dog not tethered on building site	100	200
5.1(2)	Dog in place from which prohibited absolutely	200	400
6.1(2)	Dog excreting in prohibited place	100	200

Dated 17 November 2008

The Common Seal of the }
City of Stirling }
was affixed by authority of a }
resolution of the Council in the }
presence of: }

Mayor

Chief Executive Officer