

Toowoomba Regional Council

Subordinate Local Law No. 2 (Animal Management) 2011

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Part 1 Preliminary

1 Short title

This subordinate local law may be cited as *Subordinate Local Law No. 2 (Animal Management) 2011*.

2 Purpose and how it is to be achieved

- (1) The purpose of this subordinate local law is to supplement *Local Law No. 2 (Animal Management) 2011*, which provides for regulation of the keeping and control of animals within the local government's area.
- (2) The purpose is to be achieved by providing for—
 - (a) the circumstances in which the keeping of animals is prohibited or requires approval; and
 - (b) requirements for keeping animals, including minimum standards, mandatory desexing, proper enclosures, koala conservation and identification; and
 - (c) the control of animals in public places; and
 - (d) matters regarding the impounding of animals and the sale or disposal of impounded animals; and
 - (e) the conditions to be complied with by persons who offer animals, or a particular species of animal, for sale; and
 - (f) the declaration of a species of animal as a declared dangerous animal and the criteria for declaration of a specific animal as a declared dangerous animal.

3 Authorising local law

The making of the provisions in this subordinate local law is authorised by *Local Law No. 2 (Animal Management) 2011* (the ***authorising local law***).

4 Definitions

- (1) Particular words used in this subordinate local law have the same meaning as provided for in the authorising local law.
- (2) The dictionary in schedule 13 defines particular words used in this subordinate local law.

Part 2 Keeping of animals

5 Circumstances in which keeping animals prohibited—Authorising local law, section 5(1)

For section 5(1) of the authorising local law, keeping an animal or animals mentioned in column 1 of schedule 1 is prohibited in the circumstances described in column 2 of schedule 1.

6 Circumstances in which keeping animals requires approval—Authorising local law, section 6(1)

For section 6(1) of the authorising local law, keeping an animal or animals of the species or breed mentioned in column 1 of schedule 2 requires approval in the circumstances described in column 2 of schedule 2.

7 Animals that must be desexed—Authorising local law, section 7(1)

For section 7 of the authorising local law, an animal of the species or breed mentioned in column 1 of schedule 3 must be desexed once it reaches the age specified in column 2 of schedule 3 except in the circumstances described in column 3 of schedule 3.

8 Minimum standards for keeping animals—Authorising local law, section 8(1)

- (1) For section 8(1) of the authorising local law, the minimum standards for the keeping of animals are set out in schedule 4.
- (2) For section 8(1) of the authorising local law, column 2 of schedule 5 sets out the minimum standards for keeping an animal of the species or breed mentioned in column 1 of schedule 5.

9 Identification for dogs in certain circumstances—Authorising local law, section 9

For section 9 of the authorising local law, the identification required for a dog that is at a place other than the address stated in the registration notice for the dog is the registration device mentioned in section 12(3) of the *Animal Management (Cats and Dogs) Act 2008*.

Part 3 Control of animals

12 Animal faeces in public places—Authorising local law, section 13

For section 13 of the authorising local law, no other species of animal is prescribed as an animal whose faeces must be removed from a public place and disposed of in a sanitary way.

13 Requirements for proper enclosures for keeping animals—Authorising local law, section 14(2)

For section 14(2) of the authorising local law, column 2 of schedule 8 sets out the requirements for proper enclosures for an animal of the species or breed mentioned in column 1 of schedule 8.

14 Koala conservation—Authorising local law, section 15

- (1) For section 15(1) of the authorising local law, schedule 9 sets out the requirements for keeping a dog on land that is within a koala area.
- (2) For section 15(4) of the authorising local law, each area described in schedule 10 is designated as a koala area.

15 Criteria for declared dangerous animals—Authorising local law, section 19(1)

For section 19(1) of the authorising local law, the criteria for declaring an animal as a declared dangerous animal are set out in schedule 11.

Part 4 Seizure, impounding or destruction of animals

16 Place of care for impounded animals—Authorising local law, section 24

For section 24 of the authorising local law, the place of care for animals impounded by the local government will be operated by the local government.

17 Animals that may be disposed of without auction or tender—Authorising local law, section 32(1)(b)

For section 32(1)(b) of the authorising local law, the species, breeds or classes of animal that may be sold by private agreement, destroyed or disposed of in some other way are the following—

- (a) dogs; and
- (b) cats; and
- (c) other small domestic animals.

18 Register of impounded animals—Authorising local law, section 33(3)

For section 33(3) of the authorising local law, the register of impounded animals will be kept at the local government’s public office.

Part 5 Appeals against destruction orders

This part in the authorising local law does not contain any matters to be provided for by subordinate local law.

Part 6 Miscellaneous

19 Conditions regarding sale of animals—Authorising local law, section 42(1)

For the purposes of section 42(1) of the authorising local law, persons who offer for sale an animal of a species or breed mentioned in column 1 of schedule 12 must comply with the conditions set out in column 2 of schedule 12.

20 Animals excluded from application of the local law—Authorising local law, schedule

For the purposes of the definition of “*animal*” in the schedule to the authorising local law, animals of the fish species are excluded from the application of the authorising local law.

21 Species that are declared dangerous animals—Authorising local law, schedule

For the purposes of the definition of “*declared dangerous animal*” in the schedule to the authorising local law, no species of animal is declared to be a declared dangerous animal.

22 Prescribed period for reclaiming animals—Authorising local law, schedule

For the purposes of the definition of “*prescribed period*” in the schedule to the authorising local law, the period within which an animal may be reclaimed is—

- (a) if the animal is a registered dog or an identifiable animal other than a dog—5 days; and
- (b) if the animal is an unregistered dog or an animal which is not an identifiable animal—3 days.

Schedule 1 Prohibition on keeping animals

Section 5

	Column 1 Animal	Column 2 Circumstances in which keeping of animal or animals is prohibited
1	Dog	<p>(a) More than 2 dogs over the age of 12 weeks on premises or an allotment with an area less than 450m².</p> <p>(b) More than 4 dogs over the age of 12 weeks on premises or an allotment with an area more than 450m² but less than 4,000m².</p> <p>(c) More than 4 dogs over the age of 12 weeks on premises or an allotment with an area more than 4,000m² but less than 40,000m².</p> <p>(d) More than 5 dogs over the age of 12 weeks on premises or an allotment with an area more than 40,000m².</p> <p>(e) The prohibition in paragraph (c) and (d) does not apply to working dogs.</p> <p>(f) Any of the following breeds, and a cross-breed of any of the following breeds, anywhere in the local government area—American pit bull terrier or pit bull terrier; dogo Argentino; fila Brasileiro; Japanese tosa; Perro de Presa Canario or Presa Canario.</p>
2	Cat	<p>(a) More than 3 cats over the age of 12 weeks on premises or an allotment with an area less than 450m².</p> <p>(b) More than 4 cats over the age of 12 weeks on premises or an allotment with an area more than 450m² but less than 4,000m².</p> <p>(c) More than 5 cats over the age of 12 weeks on premises or an allotment with an area more than 4,000m².</p>
3	Horse, donkey, camel or other animal of a similar size or type and cow, bull or other animal of a similar size or type	<p>(a) An animal identified in this item 3 on an allotment with an area less than 4,000m².</p> <p>(b) A density of animals identified in this item 3 on an allotment that is greater than 1 animal per 4,000m².</p>

4	Sheep, goat, alpaca, llama or other animal of a similar size or type	(a) An animal identified in this item 4 on an allotment which is in a residential area and has an area less than 4,000m ² . (b) An animal identified in this item 4 on an allotment which is in a residential area if the density of animals is greater than 1 animal per 4,000m ² .
5	Rooster	(a) A rooster on an allotment in a residential area less than 4,000m ² . (b) More than 5 roosters on an allotment in a residential area greater than 4,000m ²
6	Poultry other than a rooster	21 or more poultry (other than a rooster) on an allotment in a residential area.
7	Deer	A deer on an allotment in a residential area.
8	Pig, including a miniature pig	A pig, including a miniature pig, on— (a) an allotment in a residential area; or (b) an allotment in a commercial, industrial or light industrial zoned area in the planning scheme of the local government with an area less than 4,000m ² .
9	Duck	(a) A duck on an allotment which is in a residential area and has an area less than 2,000m ² . (b) More than 5 ducks on an allotment in a residential area greater than 2,000m ² .
10	Goose	A goose on an allotment in a residential area.
11	Guinea fowl, ostrich, emu, turkey and peacock	A bird identified in this item 11 on an allotment in a residential area.
12	Bees	(a) A hive on an allotment less than 400m ² in a residential area. (b) More than 2 hives on an allotment less than 1,000m ² in a residential area. (c) More than 5 hives on an allotment less than 2,000m ² in a residential area. (d) More than 10 hives on an allotment less than 4,000m ² in a residential area.
13	Racing pigeons	(a) Racing pigeons on an allotment which is in a residential area and has an area less than 1,000m ² . (b) More than 30 racing pigeons on an allotment in a residential area greater than 1,000m ² .

- (1) A prohibition prescribed in this schedule does not apply to the keeping of 1 or more animals (each an ***exempt animal***) on premises if—
 - (a) each exempt animal was kept on the premises before the commencement of the authorising local law; and
 - (b) the keeping of each exempt animal on the premises immediately before the commencement of the authorising local law did not contravene any provision of a local law of the local government that was repealed contemporaneously with the making of the authorising local law.
- (2) For the avoidance of doubt, if an exempt animal dies or is permanently removed from the premises, subsection (1) does not exempt, from the prohibition prescribed in this schedule, the keeping of any animal which is a replacement for the exempt animal.

Schedule 2 Requirement for approval to keep animal

Section 6

	Column 1 Species or breed of animal	Column 2 Circumstances in which keeping of animal or animals requires approval¹
1	Dog	<p>(a) More than 1 dog over the age of 12 weeks on premises or an allotment with an area less than 450m².</p> <p>(b) More than 2 dogs over the age of 12 weeks on premises or an allotment with an area more than 450m² but less than 4,000m².</p> <p>(c) More than 3 dogs over the age of 12 weeks on premises or an allotment with an area more than 4,000m² but less than 40,000m².</p> <p>(d) More than 4 dogs over the age of 12 weeks on premises or an allotment with an area more than 40,000m².</p> <p>(e) The requirement for an approval in paragraphs (c) and (d) does not apply to working dogs.</p>
2	Cat	<p>(a) More than 2 cats over the age of 12 weeks on premises or an allotment with an area less than 450m².</p> <p>(b) More than 3 cats over the age of 12 weeks on premises or an allotment with an area more than 450m² but less than 4,000m².</p> <p>(c) More than 3 cats over the age of 12 weeks on premises or an allotment with an area more than 4,000m².</p>
3	Rooster	1 or more roosters on an allotment in a residential area.
4	Poultry other than a rooster	More than 10 poultry (other than a rooster) on an allotment in a residential area
5	Pig	<p>A pig on an allotment with an area of 4,000m² or more unless—</p> <p>(a) the keeping of the pig on the allotment is authorised by a development approval; or</p> <p>(b) the allotment is rural land and the responsible person for the pig is a primary producer.</p>

¹ See *Local Law No.1 (Administration) 2011* and *Subordinate Local Law No.1.5 (Administration) 2011* in relation to the requirements and processes for approvals (e.g. form of application for approval, documents and materials that must accompany applications, criteria for granting approval, conditions that must be imposed on approvals, conditions that will ordinarily be imposed on approvals, term of approval, third party certification of applications).

6	Cockatoo, galah or other bird of a similar size or type	More than 6 birds identified in this item 6 on an allotment in a residential area.
7	Budgerigar, canary or other bird of a similar size or type	More than 30 birds identified in this item 7 on an allotment in a residential area.
8	Racing pigeons	More than 10 racing pigeons on an allotment which— (a) is in a residential area; and (b) has an area of more than 1,000m ² .

Schedule 3 Requirement to desex animal

Section 7

	Column 1 Species or breed of animal	Column 2 Age at which animal must be desexed	Column 3 Exemptions to the requirement for desexing
1	No species or breed of animal mentioned		

Schedule 4 Minimum standards for keeping animals generally

Section 8(1)

1. A person who keeps an animal on premises must —
 - (a) ensure that the animal is adequately identified so that the owner's name, address and telephone number are readily ascertainable; and
 - (b) ensure that waste waters from enclosures are drained in a nuisance free manner and that run-off is kept off adjoining premises or as otherwise directed by an authorised person; and
 - (c) ensure that excreta, food scraps, dead animals and any other material that is, or is likely to become, offensive is collected at least daily and, if not immediately removed from the premises, is kept in a waste container of a kind approved by an authorised person; and
 - (d) ensure that any enclosure in which an animal is kept is properly maintained in a clean and sanitary condition; and
 - (e) ensure that the enclosure is constructed so as to facilitate ease of cleaning and is effectively maintained so as not to become deteriorated; and
 - (f) ensure a nuisance is not caused by any emission arising from keeping an animal including of aerosols, fumes, light, odour, particles or smoke.

Schedule 5 Minimum standards for keeping particular animals

Section 8(2)

	Column 1 Species or breed of animal	Column 2 Minimum standards for keeping animals
1	Horse, donkey, cow, bull, ox, deer and other domesticated animals of a similar size or type and sheep, goat, pig and other animals of a similar size or type	Each owner of, and responsible person for, an animal specified in column 1, item 1 which is kept on premises must ensure that any enclosure in which the animal is kept is not located within a radius of 20m of— (a) a residence on adjoining premises; or (b) a place used for the manufacture, preparation or storage of food intended for human consumption other than a domestic kitchen used solely for domestic purposes by the owner or responsible person for the animal; or (c) a place used for the storage of food (other than food kept in hermetically sealed packages).
2	Budgerigar, canary and other birds of a similar size or type and cockatiel and other birds of a similar size or type and cockatoo, galah and other birds of a similar size or type	Each owner of, and responsible person for, a bird specified in column 1, item 2 must ensure that— (a) the bird is kept without nuisance; and (b) the bird is contained within an enclosed cage or aviary; and (c) the bird's food is kept in a properly sealed, vermin proof container; and (d) the cage or aviary in which the bird is kept is thoroughly cleaned at least once each week; and (e) if a code of practice for the keeping of birds of a relevant species has been approved by the local government—the bird is kept in accordance with the requirements of the code of practice; and (f) the enclosure in which the bird is kept is not located less than 2m from the side and rear boundaries of the premises.
3	Pigeons	Each owner of, and responsible person for, pigeons which are kept on premises must ensure that— (a) the pigeons are kept without nuisance; and (b) the pigeons contained within an enclosed cage or aviary; and

		<p>(c) the pigeon's food is kept in a properly sealed, vermin proof container; and</p> <p>(d) the cage or aviary in which the pigeons are kept is—</p> <p style="padding-left: 20px;">(i) thoroughly cleaned at least once each week; and</p> <p style="padding-left: 20px;">(ii) located at the rear of, and behind, any residence situated on the premises; and</p> <p>(e) if a code of practice for the keeping of pigeons has been approved by the local government—the pigeons are kept in accordance with the requirements of the code of practice; and</p> <p>(f) the enclosure in which the pigeons are kept is not located less than 2m from the side and rear boundaries of the premises.</p>
4	Bees	<p>Each owner of, and responsible person for, bees which are kept on premises must ensure that—</p> <p>(a) the bees are kept without nuisance; and</p> <p>(b) any beehive constructed for the purpose of keeping the bees is not located within 10m of a residence on adjoining premises; and</p> <p>(c) each beehive constructed for the purpose of keeping bees is adequately identified so that the owner's name, address and telephone number are readily ascertainable; and</p> <p>(d) if a code of practice for the keeping of bees has been approved by the local government — the bees are kept in accordance with the requirements of the code of practice.</p>
5	Duck, drake, goose, turkey, rooster, peacock, peahen, ostrich, emu and poultry	<p>Each owner of, and responsible person for, a bird identified in column 1 item 5 which is kept on premises must ensure that—</p> <p>(a) the bird is kept without nuisance; and</p> <p>(b) the bird is contained within an enclosure; and</p> <p>(c) the bird's food is kept in a properly sealed, vermin proof container; and</p> <p>(d) the enclosure in which the bird is kept is—</p> <p style="padding-left: 20px;">(i) thoroughly cleaned at least once each week; and</p> <p style="padding-left: 20px;">(ii) located at the rear of, and behind, any residence situated on the premises; and</p> <p>(e) the enclosure in which the bird is kept is not located within a radius of 10m of—</p>

		<ul style="list-style-type: none">(i) a residence on adjoining premises; or(ii) a place used for the manufacture, preparation or storage of food intended for human consumption other than a domestic kitchen used solely for domestic purposes by the owner or responsible person for the bird; or(iii) a place used for the storage of food (other than food kept in hermetically sealed packages); and <p>(f) the enclosure in which the bird is kept is not located less than 2m from the side and rear boundaries of the premises.</p>
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Schedule 8 Requirements for proper enclosures for animals

Section 13

	Column 1 Species or breed of animal	Column 2 Requirements for proper enclosures
1	All animals regardless of species or breed	<p>(1) A proper enclosure is an area of the land on which the animal is kept, appropriately sized so as to be capable of effectively and comfortably housing the animal.</p> <p>(2) The area must be suitably fenced—</p> <ul style="list-style-type: none">(a) appropriate to the species and breed of the animal to be enclosed; and(b) so as to effectively enclose the animal on the land on which it is kept at all times; and(c) so as to effectively enclose the animal so that the animal cannot reach over or through the fence to adjoining land or any public place; and(d) subsection (2)(c) above does not apply to that part of an enclosure built adjoining a public place that is a road on which an animal is kept by a primary producer on rural land. <p>(3) For the purposes of this item 1 <i>suitably fenced</i> means enclosed by a fence —</p> <ul style="list-style-type: none">(a) constructed of materials which are of sufficient strength to prevent the animal from escaping over, under or through the fence; and(b) of a height which is sufficient to prevent the animal jumping or climbing over the fence; and(c) where the animal has the ability to dig — which includes a barrier installed directly below the fence to prevent the animal digging its way out; and(d) where the animal has the ability to climb — designed and constructed in such a way as to prevent the animal from climbing over the fence; and(e) of which all gates are kept closed and latched except when in immediate use by a person entering or leaving the land on which the animal is kept.

**Schedule 9 Requirements for keeping a dog in a koala
area**

Section 14(1)

No requirements prescribed.

Schedule 10 Koala areas²

Section 14(2)

No area designated.

² “Koala areas” under section 15(4) of the authorising local law comprise the areas designated in this schedule plus “koala habitat areas” designated by a State planning instrument or a conservation plan made under the *Nature Conservation Act 1992*.

Schedule 11 Criteria for declared dangerous animals

Section 15

There is a high likelihood of the animal causing injury to a person or animal or damage to property, taking into account—

- (a) its prior history of attacking or causing fear to persons or animals or damaging property; and
- (b) the extent of injury or damage that could potentially be inflicted by an animal of its size and species or breed.

Schedule 12 Conditions for sale of animals

Section 19

	Column 1 Species or breed of animal	Column 2 Conditions that must be complied with when offering animal for sale
	No species or breed of animal mentioned	No conditions set out.

Schedule 13 Dictionary

Section 4

allotment means a single parcel of land, or several contiguous parcels of land where all of the contiguous parcels of land are in —

- (a) the same ownership; or
- (b) the same occupation.

Animal Management Act see *Animal Management (Cats and Dogs) Act 2008*.

animal noise nuisance see section 8(1) and schedule 4.

building has the meaning given in the *Building Act 1975*.

cat—

- (a) has the meaning given in section 11 of the Animal Management Act; and
- (b) includes a kitten regardless of age.

destroy, an animal, includes causing it to be destroyed.

dog—

- (a) has the meaning given in section 11 of the Animal Management Act; and
- (b) includes a puppy regardless of age.

domestic purposes means the purposes of—

- (a) human consumption; or
- (b) food preparation; or
- (c) washing; or
- (d) other normal domestic duties.

exempt animal see schedule 1.

horse includes a pony and a miniature horse.

identifiable animal means an animal—

- (a) wearing an identifying tag issued by the local government; or
- (b) otherwise identified so that the local government is able to ascertain the owner of the animal.

keep (an animal)—

- (a) includes board, breed and train; and
- (b) in the absence of evidence to the contrary, a person is presumed to keep an animal on land if the person —
 - (i) feeds and cares for the animal on the land; and
 - (ii) the animal is observed by an authorised person on the land on more than 1 occasion during a month.

land has the meaning given in the *Sustainable Planning Act 2009*.

multi-residential premises includes each of the following —

- (a) a residence which forms part of a group of 2 or more residences in circumstances where 2 or more of the residences of the group are directly adjacent to each other and share—
 - (i) a common wall; or
 - (ii) a ceiling in circumstances where 1 residence is directly under the floor of another residence; and
- (b) a residence situated on a lot which forms part of a community titles scheme as defined in the *Body Corporate and Community Management Act 1997*.

Examples of multi-residential premises —

Flats, boarding houses, tenement buildings, home units, townhouses and duplexes.

occupier, of premises—

- (a) means the person who has the control or management of the premises; and
- (b) includes the owner of the premises where there is no person in apparent occupation of the premises.

planning scheme has the meaning given in the *Sustainable Planning Act 2009*.

premises—

- (a) means any land, building or structure and includes any part thereof; and
- (b) includes an allotment, whether or not—
 - (i) the allotment is a single parcel of land, or several contiguous parcels of land; or
 - (ii) all of the contiguous parcels of land are in—
 - (A) the same ownership; or
 - (B) the same occupation; and
- (c) includes multi-residential premises.

primary producer has the meaning given in the Animal Management Act.

registered has the meaning given in the *Animal Management (Cats and Dogs) Act 2008*.

residence means a building, or part of a building, that is—

- (a) fixed to land; and
- (b) designed, or approved by a local government, for human habitation by a single family unit; and
- (c) used for residential purposes.

residential area—

- (a) means premises zoned in the planning scheme of the local government as suitable for use as residential premises; and
- (b) includes any premises (***contiguous premises***) if the premises—
 - (i) are contiguous to premises identified in paragraph (a), regardless of whether the contiguous premises are zoned as suitable for use as residential premises or not; and
 - (ii) have an area not more than 4,000m².

residential premises means premises used, or intended to be used, predominantly as a place of residence.

rural land has the meaning given in the Animal Management Act.

stock has the meaning given in the Animal Management Act.

structure has the meaning given in the *Local Government Act 2009*.

working dog has the meaning given in the Animal Management Act.