



1701



PERTH, THURSDAY, 22 APRIL 1999 No. 69 SPECIAL

PUBLISHED BY AUTHORITY JOHN A. STRIJK, GOVERNMENT PRINTER AT 3.30 PM

DOG ACT 1976

**SHIRE OF CAPEL
LOCAL LAWS RELATING TO
DOGS**

DOG ACT 1976**SHIRE OF CAPEL****LOCAL LAWS RELATING TO DOGS**

Pursuance to the powers conferred upon it by the abovementioned Act and of all other powers enabling it, the Shire of Capel hereby records having resolved on 31 March 1999, to adopt the following Local Laws and revoke the Dog Local Laws as published in the *Government Gazette* on the 25 January, 1991.

Citation

1. These Local Laws may be cited as the Shire of Capel Local Laws Relating to Dogs.

Definitions

2. In these Local Laws, unless the context requires otherwise—
 - “Act” means the Dog Act 1976 as amended.
 - “Authorised Person” means a person who is authorised by or under Section 29 of the Dog Act 1976.
 - “Beach Foreshore” means all the land in the Shire of Capel which lies between the high water mark and the low water mark of the Indian Ocean.
 - “District” means the district of the Municipality of the Shire of Capel.
 - “Local Government” means the Shire of Capel.
 - “Public Building” means a public building defined in Section 173 of the Health Act 1911 as amended.
 - “Regulations” means the Dog Act Regulations 1976, as amended.
 - “Residential Areas” means Residential and Special Rural zones as defined in the Shire of Capel’s Town Planning Scheme.

All other words and expressions have the same meaning as they have in the Dog Act 1976 as amended.

Pound

3. The local government may establish and maintain a Pound or Pounds for the impounding of dogs seized pursuant to the provisions of the Act or these Local Laws as it deems necessary.
4. The Pound used by the local government is established on the corner of Prowse Road and Range Road (Reserve 14054), Capel.
5. The Pound or Pounds maintained by the local government for the detention of dogs seized shall be attended by an Authorised Person at such times and on such days as necessary.

Pound Fees

6. The fees and charges in relation to the seizure and impounding of a dog and maintenance thereof in a pound payable under section 29 (4) of the Act are those determined by the local government from time to time.
7. The fee payable by the owner of a dog which has been destroyed pursuant to the provisions of the Act is that determined by the local government from time to time.
8. A person liable for the control of a dog, as defined in Section 3 (1) of the Act, is not excused from liability under the provisions of the Act, Regulations or these Local Laws by virtue of the payment of fees or charges determined by the local government from time to time for the seizure, care, detention or destruction of a dog.
9. Any person applying for the release of a dog seized or impounded shall prove to the satisfaction of an authorised person the ownership of a dog and his authority to take delivery of it. An Authorised Person may accept such proof as he considers satisfactory and no person shall have any right of action against him or the local government in respect of delivery of a dog in good faith.

Prohibited Places

10. Except in the case of a bona fide guide dog, or hearing dog a person liable for the control of a dog shall prevent that dog from entering or being in any of the following places—
 - (a) a public place;
 - (b) a place of worship;
 - (c) any shop, not being a pet shop or premise used for the purpose of the practice of a registered veterinary surgeon;
 - (d) any of the beach foreshore areas from 1 November to 30 April each year, specified hereunder—
 - (i) north east from the prolongation of Peppermint Grove Road, Peppermint Grove Beach, for a distance of 300 metres;

- (ii) south west from the prolongation of Dalyellup Road, Dalyellup, for a distance of 200 metres;
- (iii) north east from the prolongation of Rich Road, Stratham, for a distance of 200 metres;
- (iv) Beach foreshore west of and adjacent to Reserve 25427, Forrest Beach.

Dog Exercise Area

11. The lands specified in the First Schedule and as amended by the local government from time to time to these Local Laws are designated as Dog Exercise Areas for the purpose of the Act. The exercising of the dogs in dog exercising areas is subject to the provisions of the Act.

Control of Dogs in Residential Areas

12. A dog shall not be in a Public Place within a residential area 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 sufficient strength and not exceeding the prescribed length of three metres, as defined in the Act.

Fencing

13. (1) The owner or occupier of premises within a residential area in which a dog is kept shall cause the portion of those premises on which the dog is kept to be fenced in a manner capable of confining the dog to that portion and in accordance with the provision of this Local Law.

(2) The fence used to confine a dog and every part of such fence shall have a regard to the local government's Local Laws relating to fencing, and be of a type, height and construction which, having regard to the species, age, size and physical condition of the dog, prevent the dog from passing over, under or through the fence.

(3) If there is a gate in the fence the gate shall—

- (a) be kept closed at all times except when the dog is not kept on the premises; and
- (b) be fitted with—
 - (i) an efficient self-closing mechanism;
 - (ii) an efficient self-latching mechanism attached to the inside of the gate; and
 - (iii) a mechanism which enables the gate to be permanently locked.

(4) In this Local Law the term 'fence' includes a wall.

Fouling of Streets and Public Places

14. Any person liable for the control of a dog as defined in Section 3 (1) of the Act, who permits the dog to excrete on any street or public place or on any land within the District without the consent of the occupier commits an offence unless the excreta is removed forthwith and disposed of either on private land with the consent of the occupier or in such other manner as the local government may approve.

Maximum Number of Dogs in Residential Areas

15. The owner or occupier of any premises within the a residential area shall not, unless the premises have been granted exemption under Section 26(3) of the Act, keep, permit or suffer to remain thereon more than two dogs over the age of three months, unless such premises are licensed as an approved kennel establishment.

Application for Kennel Licence

16. A kennel referred to in Local Law 15 shall not be erected unless;

- (i) The land is zoned as Rural under the local government's Town Planning Scheme; and
- (ii) The attachments required by Local Law 17 have been approved by the local government.

17. An application for a licence to keep an approved kennel establishment shall be in the form of the Second Schedule attached to these Local Laws and shall be accompanied by two copies of a plan showing the details and specifications of all kennels and yards appurtenant thereto and showing the distances from the said kennels to the boundaries of the land the subject of the application and all buildings on the said land together with such other information as the local government may require.

18. Unless the local government directs otherwise a person seeking the issue of a licence to keep an approved kennel establishment shall at least 21 days before the application is made to the local government—

- (a) publish in a newspaper circulating in the district a notice of his intention to submit an application for a licence specifying that any interested person may within 21 days after the date of the publication object to or make representations in respect of the application in writing directly to the local government; and
- (b) forward a notice in the form of the Third Schedule attached to these Local Laws to the owners and occupiers of all adjoining land and premises.

19. A licence to keep an approved kennel establishment shall be in the form of the Fourth Schedule attached to these Local Laws.

20. The fees payable for the issue of a licence to keep an approved kennel establishment and for the renewal of such licence are as determined by the local government from time to time.

21. The period of effect of a licence is set out in Section 27 (5) of the Act.

22. A person seeking the renewal of a licence to keep an approved kennel establishment shall make application to the local government in the form of the Second Schedule attached to these Local Laws. The local government may at its discretion require that the person seeking the renewal of the registration give notice of intention as provided for in Local Law 18 of the Local Laws.

23. The occupier of premises licensed as an approved kennel establishment shall ensure that the dogs in that establishment are kept in kennels and yards appropriate to the breed or kind in question and in accordance with the following requirements—

- (a) each kennel shall have a yard appurtenant thereto which is capable of retaining the dog within its confines;
- (b) each kennel and each yard and every part thereof shall not be at any less distance than 50 metres from any boundary of the land being the subject of the licence;
- (c) each kennel and each yard and every part thereof shall be at a distance of not less than 40 metres from any dwelling and dairy or any premises wherein food is manufactured, prepared, packed or stored for human consumption.
- (d) the walls shall be constructed of concrete, brick, stone or timber frame lined on the outside with colourbond contour steel sheeting or other material approved by the local government.
- (e) the roof and internal walls of each kennel shall be coated with an impervious material;
- (f) the lowest internal height of the kennel shall be at least 2 metres from the floor;
- (g) all painted external surfaces of the kennel shall be kept in good condition and be repainted when directed by an Authorised Person;
- (h) all gates shall be provided and fitted with proper catches or means of securely fastening;
- (i) each yard shall be securely fenced and kept securely fenced with a fence not less than 2 metres in height constructed of link mesh or netting, colourbond contour steel sheeting or timber, or of any other material approved by the local government;
- (j) the upper surface of a kennel floor shall be at least 10 centimetres above the surface of the surrounding ground and shall be constructed of granolithic cement finished to a surface having a fall of not less than 1 in 100 to a drain which shall be properly laid, ventilated and trapped in accordance with the health requirements of the local government;
- (k) all floor washings shall pass through the drain and shall be disposed of in accordance with the health requirements of the local government;
- (l) the floor area of each kennel shall be an area of not less than 2.5 square metres for every dog kept therein over the age of three months.
- (m) the yard of any kennel or group of kennels shall not be less than twice the area of the kennel or group of kennels;
- (n) all kennels and yards and all feeding and drinking vessels shall be maintained in a clean disinfected and sanitary condition and shall be cleansed and disinfected when so ordered by an Authorised Person;
- (o) every approved kennel establishment shall be provided with reticulated water in the form of a supported stand pipe and hose for the hosing down of the kennels and yards.
- (p) dispose of all refuse, faeces and food waste daily in a manner approved by the local government;
- (q) take all practical measures for the destruction of fleas, flies and other vermin.

24. The occupier of any premises which have been licensed by the local government as an approved kennel establishment shall not allow, permit or suffer any dog to be at large or roam outside the kennel or exercise yard, except for the purpose of reasonable exercise where a competent person is in proximity to the dog.

25. In the event of a person not renewing the kennel registration on completion of the 12 month licence period, or the local government cancelling the licence under Section 27 (5) of the Act, the local government may require that the kennels be demolished to the satisfaction of the local government.

Penalties

26. Any person who contravenes or fails to comply with any provision of these Local Laws commits an offence and shall upon conviction be liable to a penalty not exceeding \$1000.

27. The offences described in the Fifth Schedule are prescribed pursuant to Section 45A(2) of the Act as offences in relation to which a modified penalty applies and the amount appearing directly opposite each such offence is the prescribed modified penalty payable in respect of that offence.

28. (1) Where an Authorised Person has reason to believe that a person who has committed an offence against these Local Laws as prescribed in Local Law 26 he may serve on that person an infringement notice and the infringement notice issued under these Local Laws shall be in the form depicted in Form 7 of the First Schedule of the Regulations.

(2) An infringement notice may be served on an alleged offender personally or by registered post to his address as ascertained from him, at the time of or immediately following the occurrence giving rise to the allegation of the offence, or as recorded by the local government pursuant to the Act.

(3) Where a person who received an infringement notice fails to pay the prescribed penalty within the time specified in the notice, or within such times as may be in any particular case be allowed, he is deemed to have declined to have the allegation dealt with by way of a modified penalty.

(4) An alleged offender on whom an infringement notice has been served may, within the time specified in that notice or such further time as may in any particular case be allowed, send or deliver to the local government the amount of the prescribed penalty, with or without a reply as to the circumstances giving rise to the allegation, and the local government may thereupon—

- (a) appropriate that amount in satisfaction of the penalty and issue an acknowledgment; or
- (b) withdraw the infringement notice and refund the amount so paid.

(5) An infringement notice may, whether or not the prescribed penalty has been paid, be withdrawn by the local government by sending a notice in the prescribed form to the alleged offender at the address specified in the notice or his last known place of residence or business.

(6) The prescribed form of Withdrawal of Infringement Notice issued under these Local Laws shall be in the form depicted in Form 8 of the First Schedule of the Regulations.

First Schedule
SHIRE OF CAPEL
DOG EXERCISE AREAS

Capel Townsite

1. Reserve 21929 - Sub Lots 71, 75 and 76 Cnr. Weld and East Roads.
2. Part of road reserve (road realignment) adjacent to Sub Lot 21 West Road being Hannaby Park and described as follows—

The triangular portion of unused road reserve severed by the prolongation of the south western road front boundary of lot 37 of Leschenault Location 232 to an intersection with the western boundary of Capel Suburban Lot 21.

Boyanup Townsite

Reserve 8333 - Boyanup Lots 65, 104, 105 and 106 Boyanup Road (Lions Park)

Gelorup

Reserve 36754 - Hastie Road
Reserve 35462 - Hampstead Road

Beaches

All beach foreshores with the exception of those specified in Local-Law 10

Second Schedule
SHIRE OF CAPEL
APPLICATION FOR LICENCE/RENEWAL OF LICENCE
TO KEEP AN APPROVED KENNEL ESTABLISHMENT

In conformity with the Dog Act 1976, and the Shire of Capel Local Laws Relating to Dogs,

I/We (full names)
of

hereby apply for a licence/the renewal of a licence (strike out whichever is not applicable) to keep an approved kennel establishment at:

Lot Street Locality

Owner (name and address)

Occupier (name and address)

Purpose for which the kennel is to be used

.....

Number of Dogs to be kept

Breed of Dogs

Attached hereto are—

- (i) a plan of the premises showing the location of the kennels and yards and all other buildings, structures and fences;
- (ii) plans and specifications of the kennels;
- (iii) evidence that notice of the proposed use of the land has been given—
 - (a) by advertising at least once in a newspaper circulating in the district; and
 - (b) in writing to the owners and occupiers of all adjoining land and premises;
- (iv) the fee of \$

Dated the day of 19.....

.....

(Signature of Applicant)

NOTE: Items (i), (ii) and (iii) may be struck out, if the application is for the renewal of a licence and if no change has been made since the previous application and if the local government does not make an election as provided for in Local Law 22 of its Local Laws Relating to Dogs.

Third Schedule
SHIRE OF CAPEL
NOTICE OF INTENTION BY AN OWNER OR OCCUPIER
TO MAKE AN APPLICATION FOR A KENNEL LICENCE

To:

Please take notice that I/We intend to make application to the Shire of Capel for a kennel licence in respect of premises situated at—

Any objections to or representations in respect of this application shall be made in writing addressed to—

Chief Executive Officer
 Shire of Capel
 Forrest Road,
 CAPEL WA 6271

within fourteen (14) days of the date hereof.

Other information concerning the proposal

Dated the day of 19.....

.....
 (Signature of Applicant)

Fourth Schedule
SHIRE OF CAPEL
LICENCE TO KEEP AN APPROVED KENNEL ESTABLISHMENT

License No:

This is to certify that (1)

is/are the holder(s) of a licence to keep an approved kennel establishment at—

This licence remains valid until

Dated the day of 19.....

.....
 Chief Executive Officer

(1) Insert name/s of licence holder(s).

Fifth Schedule
SHIRE OF CAPEL
MODIFIED PENALTIES

<u>Item</u>	<u>Local-Law</u>	<u>Nature of Offence</u>	<u>Penalty (\$)</u>
1.	10	Permitting a dog to be in a prohibited place	100
2.	14	Permitting a dog to excrete on a street or public place or other land, without the consent of the occupier of that land and failing to remove and dispose of such excreta in an approved manner.	100
3.	13(1)	Failure to keep premises fenced as required	100
4.	23(n)	Failure to maintain a kennel establishment in a clean, sanitary and tidy condition	100

Dated this 12th day of April 1999

The Common Seal of the Shire of Capel was affixed in the presence of—

WILLIAM C. SCOTT, President.
 R. G. BONE, Chief Executive Officer.

