



WESTERN  
AUSTRALIAN  
GOVERNMENT

**Gazette**

3111



PERTH, FRIDAY, 9 JULY 1999 No. 133

**SPECIAL**

PUBLISHED BY AUTHORITY JOHN A. STRIJK, GOVERNMENT PRINTER AT 3.45 PM

DOG ACT 1976

---

**SHIRE OF LEONORA  
LOCAL LAW RELATING TO  
DOGS**



**DOG ACT 1976**

## SHIRE OF LEONORA

**LOCAL LAW RELATING TO DOGS**

## ARRANGEMENT

**PART 1—PRELIMINARY**

## Section

- 1.1 Repeal
- 1.2 Citation
- 1.3 Interpretation

**PART 2—REGISTRATION OF DOGS****PART 3—DOGS IN PUBLIC PLACES GENERALLY**

- 3.1 Places where dogs are prohibited absolutely
- 3.2 Places which are dog exercise areas
- 3.4 Effect of deciding additional areas
- 3.5 Fouling of Streets and Public Places and Reserves

**PART 4—REQUIREMENT AND LIMITATIONS ON THE KEEPING OF DOGS**

- 4.1 Fencing Requirements
- 4.2 Limitation on the number of dogs

**PART 5—IMPOUNDING OF DOGS****PART 6—REGULATION OF DOG KENNELS**

- 6.1 Application for Kennel Establishment License
- 6.12 Duties of the License Holder

**PART 7—OFFENCES AND PENALTIES**

- 7.1 Penalties
- 7.2 Offences and Penalties
- 7.3 Modified Penalties
- 7.4 Form of Notices
- 7.5 Service of Infringement Notice
- 7.6 Failure to pay Modified Penalty
- 7.7 Payment of Modified Penalty
- 7.8 Withdrawal of Infringement Notice
- 7.9 Form of Withdrawal of Infringement

**First Schedule****Second Schedule****Third Schedule****Fourth Schedule****Fifth Schedule**



**DOG ACT 1976**

## SHIRE OF LEONORA

**LOCAL LAW RELATING TO DOGS**

Under the powers conferred upon it by the abovementioned Act and the Local Government Act 1995, and of all other powers enabling it, the Shire of Leonora hereby records having resolved on 15th June 1999 to make the following local laws.

**PART 1—PRELIMINARY****1.1 Repeal**

The local law of the Shire of Leonora relating to dogs published in the *Government Gazette* on the 29 June 1984 is hereby repealed.

**1.2 Citation**

This local law may be cited as the “Shire of Leonora Local Law relating to Dogs.”

**1.3 Interpretation**

In this local law, unless the context otherwise requires—

“Act” means the Dog Act 1976

“authorised person” means a person who is authorised under Section 29 of the Act.

“Chief Executive Officer” means the person for the time being employed as the Chief Executive Officer of the Shire of Leonora. Such person shall, subject to Council resolution exercise general supervision and control over all matters pertaining to this local law and the direction of such person shall in all cases and for all purposes be presumed to be and to have been the directions of the Council.

“Council” means the Council of the Shire of Leonora.

“district” means the district of the Shire of Leonora.

“public place” includes a street, way and place which the public are allowed to use whether the street, way or place is or is not on private property. It also includes parklands, reserves and other land set apart for the use and enjoyment of inhabitants of the district and includes all land vested in or under the care, control or management of the Shire of Leonora.

“Regulation” means the Dog Regulations, 1976.

“street” includes highway, road, lane thoroughfare, carriageway or similar place, or part thereof, which is within the district, which the public are allowed to use and includes every part of the highway, lane, thoroughfare, or similar place and other things including the street verge, footpath, bridges and culverts appurtenant to it.

1.4 Words and expressions used in this local law have the same meanings respectively given to them in and for the purpose of the Act unless the context otherwise requires or unless it is so otherwise provided herein.

**PART 2—REGISTRATION OF DOGS**

2.1 The Council shall maintain a register providing for the registration of dogs in its district in accordance with the Dog Act 1976 and amendments and regulations appurtenant thereto.

**PART 3—DOGS IN PUBLIC PLACES GENERALLY****3.1 Places where dogs are prohibited absolutely**

A person liable for the control of a dog, as defined in section 3(1) of the Act, is to prevent that dog from entering or being in any place or part of the district as set out in the Second Schedule, unless that person is blind or partially blind and is accompanied by a bona fide guide dog or is a guide dog trainer.

**3.2 Places which are dog exercise areas**

Subject to clause 3.1 a person liable for the control of a dog as defined in section 3(1) of the Act, may exercise the dog free of restraint only on land specified in the Third Schedule.

3.3 A local government may add to the places where dogs are prohibited under clause 3.1 and to the places which are dog exercise areas under clause 3.2 provided that—

3.3.1 its decision is made by an absolute majority of the members of the council;

- 3.3.2 local public notice of the decision is given under section 1.7 of the Local Government Act 1995; and
- 3.3.3 a notice is erected in a conspicuous position on or at the entrance to the place advising the effect of the decision.

#### **3.4 Effect of deciding additional areas**

Where under clause 3.3 the local government adds to the places on which dogs are prohibited under clause 3.1 or the places which are dog exercise areas under clause 3.2, the added places shall for all purposes of enforcement or otherwise be treated as if it were listed in the appropriate Schedules to clauses 3.1 and 3.2.

#### **3.5 Fouling of Streets and Public Places and Reserves**

Any person liable for the control of a dog shall remove the excreta of that dog from any street or other public place or on any other land within the district unless otherwise permitted by the occupier of the land.

### **PART 4—REQUIREMENT AND LIMITATIONS ON THE KEEPING OF DOGS**

#### **4.1 Fencing Requirements**

The owner or occupier of premises within the district on which a dog is kept is to—

- 4.1.1 ensure that the means exist on the premises for effectively confining the dog within the premises; and
- 4.1.2 cause the premises or portion of the premises on which the dog is kept to be fenced in a manner capable of confining the dog to that portion in accordance with the provisions of this local law.
- 4.1.3 ensure the fence used to confine a dog and every gate or door in the fence 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.
- 4.1.4 ensure that every gate or door in the fence is kept closed at all times when the dog is on the premises and is fitted with an effective self closing mechanism; an effective self latching mechanism attached to the inside of the gate; and a mechanism which enables the gate to be locked and fastened.
- 4.1.5 maintain the fence and all gates and doors in good order and condition.
- 4.1.6 where no part of the premises consists of open space, yard or garden or there is no open space, yard or garden of which the occupier has exclusive use or occupation, ensure that other means exist on the premises for effectively confining the dog within the building on the premises. This does **not** include tethering the dog within the premises.

#### **4.2 Limitation on the number of Dogs**

The owner or occupier of premises situated within the district shall not, unless the premises have been granted exemption pursuant to section 26(3) of the Act or are licensed as an approved kennel established under Section 27 of the Act, keep or permit to be kept on those premises more than—

- 4.2.1 two dogs over the age of three months and the young of those dogs under that age if the premises are situated within a town site.
- 4.2.2 four dogs over the age of three months and the young of those dogs under that age if the premises are situated outside the town site.

### **PART 5—IMPOUNDING OF DOGS**

5.1 The Council may establish and maintain a pound or pounds for the impounding of dogs seized pursuant to the provisions of the Act or this local law as it deems necessary.

5.2 The fees and charges in relation to the seizure, maintenance and impounding of a dog in accordance with Section 29(4) of the Act, and fees payable in relation to a dog having been destroyed at the request of its owner are as determined by the Council from time to time.

5.3 The pound-keeper or other employee authorised by the Council is to be in attendance at the pound for the release of the dogs at such time and on such days of the week as shall from time to time be determined by the CEO—

- 5.3.1 in the absence of the pound-keeper, a claim for a dog seized or impounded may be made to the CEO or an authorised employee.
- 5.3.2 an additional fee determined by the Council from time to time is payable where arrangements are made for the release of a dog at a time or on a day other than those determined by the CEO under this clause.

5.4 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 this local law by virtue of the payment of fees or charges prescribed therein for the seizure, care, detention or destruction of a dog.

5.5 A dog seized by an officer authorised by the Council may be placed in a pound.

5.6 Where a dog has been seized or placed in a pound the keeper of the pound or other officer authorised by the Council shall, in accordance with Section 29(8)(a) of the Act, if the dog is wearing a registration tag, or the owner or person in charge of the dog is known, notify such person that the dog has been impounded in accordance with the requirements of the Act.

5.7 If the owner or person apparently acting on behalf of the owner of the dog seized or impounded shall claim such dog then, subject to clause 5.8, upon payment of the fees specified by Council from time to time, the dog shall be released to such person.

5.8 Any person applying for the release of a dog seized or impounded shall prove to the satisfaction of an authorised person the ownership of the dog and his/her authority to take delivery of it. An authorised person may accept such proof as considered satisfactory and no person shall have any right of action against the authorised officer or Council in respect of delivery of a dog in good faith.

5.9 If a dog is not claimed and required fees paid within 72 hours of its being impounded, or if a dog having a collar around its neck with the registration tag affixed thereto is not claimed and the required fees paid within 72 hours of the service of the notice upon the owner, the pounder keeper or other employee authorised by the Council may destroy or otherwise dispose of the dog.

5.10 Upon the sale of a dog the proceeds of sale are the property of the Council and may be disposed of in such manner as the Council thinks fit. The owner of a dog sold pursuant to these local laws has no claim against the pound-keeper or other employee authorised by the Council or the Council in respect of the proceeds thereof.

5.11 Notwithstanding anything herein contained but subject to the provisions of s29(12) of the Act as amended, any dog seized or impounded may at any time be destroyed upon the written authority of a registered veterinary surgeon, medical practitioner, or environmental health officer.

5.12 If the Council destroys or causes to be destroyed a dog whether at the request of its owner or not and whether such dog has been seized or detained or not the owner is to pay, when so required, the fees determined by the Council on this account.

5.13 A person must not—

5.13.1 unless a pound-keeper or other employee of the Council duly authorised in that regard releases or attempts to release a dog from a pound.

5.13.2 destroy, break into, damage or in any way interfere with or render not dog proof any pound.

5.13.3 destroy, break into, damage or in any way interfere with or render not dog proof any vehicle or container used for the purpose of catching, holding or conveying dogs which have been seized.

5.14 A person must not obstruct or hinder an employee of the Council or member of the police force in the performance of anything authorised by the provisions of the Dog Act, 1976 as amended or by the regulation made in pursuance of those provisions or by these local laws.

5.15 The payment of fees in respect of the seizure, care, detention or destruction of a dog does not relieve the owner of liability to a penalty under any of the provisions of the Act, the regulations or those local laws.

## **PART 6 —REGULATION OF DOG KENNELS**

### **6.1 Application for Kennel Establishment License**

An application for a license to keep an approved kennel establishment is to be in the form prescribed by Council from time to time and shall be accompanied by—

6.1.1 a plan showing the details and specifications of all kennels and yards appurtenant thereto and showing the distances from the kennels to the boundaries of the land the subject of the application and all buildings on the land;

6.1.2 documentation demonstrating compliance with clause 6.2;

6.1.3 prescribed fee;

6.1.4 such other information as the Council in any case requires.

6.2 A person seeking the issue of a license to keep an approved kennel establishment shall—

6.2.1 give a 14 day notice of intention to establish a kennel on the premises in writing to the owners and occupiers of all adjoining land and premises;

6.2.2 advertise the intention to establish a kennel on the premises in a newspaper circulating in the district at least 14 days before application is made to Council.

6.2.3 the letter of notification and advertisement required in clause 6.2 shall specify that any submissions regarding the application for establishment of kennels on the premises being the subject of such letter or advertisement are to be lodged with the Chief Executive Officer within 14 days.

6.3 Council may not approve or register a kennel until it has considered all submissions made regarding the establishment, operation and maintenance of the kennel upon the premises.

6.4 Notification of approval or rejection of an application to keep an approved kennel establishment shall be given to the applicant in the form determined by the Council from time to time.

6.5 The fees payable for the issue of a license to keep an approved kennel establishment and for the renewal of such a license are as specified by Council from time to time.

6.6 An approved kennel licence shall remain valid for a period of twelve (12) months from the date of issue thereof.

6.7 The approved kennel establishment is solely registered and licensed to the owners or occupier of the land as specified in the approved application for the kennel establishment licence and is deemed null and void in the event of a change in the owner or occupier of the land on which the kennel establishment is located.

6.8 The local government may refuse to renew a kennel licence if the licensee does not comply with or the kennel establishment is not kept in accordance with the part, or for any reason relating to the conduct of the kennel resulting in the kennel being a nuisance to neighbours by reason of noise, odours or any other cause.

6.9 A person seeking the renewal of a license to keep an approved kennel establishment shall make written application to the Council.

6.10 Council is not to permit the establishment or maintenance of a kennel—

- 6.10.1 other than in an area where a kennel is a permitted use under a town planning scheme;
- 6.10.2 if in the opinion of the Council, such kennel would adversely affect the environment, be a nuisance to other residents, or be detrimental or prejudicial in any way.

6.11 Any person who has been granted a kennel licence or has made application for such a licence is to ensure that the kennel establishment complies with the following conditions—

- 6.11.1 each kennel shall have a yard attached thereto;
- 6.11.2 each kennel and each yard and every part thereof is to be at a distance less than 25 m from any thoroughfare or other boundary of the land;
- 6.11.3 each kennel and each yard and every part thereof shall be a distance not less than 10 m from any dwelling;
- 6.11.4 each kennel and each yard and every part thereof is to be a distance not less than 25 m from any church, school room, hall, factory, dairy or premises whatsoever wherein food is manufactured, prepared, packed or stored for human consumption;
- 6.11.5 notwithstanding the provisions in paragraphs 6.11.2, 6.11.3 and 6.11.4 of this clause the Council may permit reduction of the kennel setback if it is shown to the satisfaction of a Council that for reasons of topography or lot configuration the prescribed setback cannot be adhered to or would be unnecessarily disadvantageous;
- 6.11.6 each yard is to be securely fenced and kept securely fenced with a fence of a height not less than 4 times the average height of the breed of the dog to which the fence is applicable. Where the yard is to facilitate more than one breed of dog the fence is to be constructed at four times the average height of the larger breed, except that where the average height of the breed of the dog exceeds 500 mm the fence is to be constructed a minimum height of 2 metres. In every case the top of the fence is to have at least 135 degree inward angle not less than 300 mm in length. For the purposes of this local law the height of a dog is to be determined by measuring from the floor to the upper most tip of the shoulder of an adult dog while in the stationary upright position;
- 6.11.7 each yard for any kennel is to be kept securely fenced with a fence constructed of link mesh or netting or other materials approved by the Council;
- 6.11.8 external gates and doors for each yard or kennel are to be fitted with effective self-closing and latching mechanisms;
- 6.11.9 the minimum floor area for each kennel is to be calculated at 2.5 times the length of the breed of the dog, squared, times the number of dogs to be housed therein. For the purpose of this clause, the length of the dog is to be determined by measuring from the base of the tail to the front of the shoulder of an adult dog;
- 6.11.10 The floor area of the yard attached to any kennel or group of kennel is not to be less than twice the floor area of the kennel or group of kennels to which it is attached;
- 6.11.11 The upper surface of the kennel floor is to be at least 100 mm above the surface of the surrounding ground and to be constructed of granolithic cement finish to a surface having a fall of not less than 1 in 100 to a spoon drain which in turn is to lead to a 100 mm diameter sewerage pipe which is to be properly laid, ventilated and trapped in accordance with the health requirements of the Council. All floor washings are to pass through this drain and be piped to appropriate apparatus for the bacteriolytic treatment of sewerage in accordance with the health requirements of the Council. The floor is to have a concrete upstand rising 75 mm above the floor level from the junction of the floor and external and internal walls, all internal walls are to be so constructed as to have a minimum clearance of 50 mm from the underside of the bottom plate of the floor;
- 6.11.12 where a yard is to be floored, the floor is to be constructed in the same manner as the floor of any kennel;
- 6.11.13 the lowest internal height of any kennel is to be 2 m from the floor;
- 6.11.14 the walls of each kennel are to 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 material approved by the Council;
- 6.11.15 all external surfaces of each kennel are to be kept in good condition and if directed by an authorised employee of the Council, are to be painted or re-painted with good quality paint;
- 6.11.16 the roof of each kennel is to be constructed of approved impervious material;
- 6.11.17 all kennels and yards and drinking vessels are to be maintained in a clean condition and be cleaned and disinfected when so ordered by an authorised employee;
- 6.11.18 the holder of a licence to keep an approved kennel establishment is to dispose of or cause the disposal of all refuse, faeces and food waste daily into approved apparatuses for that bacteriolytic treatment of sewerage;



- 6.11.19 noise, odours, fleas, flies and vermin must be effectively controlled;
- 6.11.20 water must be available at the kennel via properly supported stand pipe and tap.

#### **6.12 Duties of the License Holder**

The holder of a license to keep an approved kennel establishment shall—

- 6.12.1 comply with all conditions and requirements endorsed on the licence and contained in these local laws;
- 6.12.2 ensure that a person in charge of the dogs either resides on the premises where the kennel is established, or within reasonable close proximity so as to enable that person to have effective control over the dogs.

### **PART 7—OFFENCES AND PENALTIES**

#### **7.1 Penalties**

Any person who contravenes or fails to comply with any provision of this local law commits an offence and is liable upon conviction to a penalty not exceeding \$2000 for each offence and if the offence is a continuing one, to a further penalty not exceeding \$200 for every day or part of a day during which the offence is continued.

#### **7.2 Offences and Penalties**

Any person who contravenes or fails to comply with any provision of these local laws commits an offence and is liable upon conviction to a penalty no exceeding \$2,000.

#### **7.3 Modified penalties**

The offences contained in the First 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.

#### **7.4 Form of notices**

The form of infringement notice to be issued under these local laws is to be in the form depicted in Form 7 of the Fourth Schedule.

#### **7.5 Service of Infringement notice**

An infringement notice may be served on an alleged offender personally or by posting 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.

#### **7.6 Failure to pay modified penalty**

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

#### **7.7 Payment of modified penalty**

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 penalty, with or without a reply as to the circumstances giving rise to the allegation, and the local government may thereupon—

- 7.7.1 appropriate that amount in satisfaction of the penalty and issue an acknowledgement; or
- 7.7.2 withdraw the infringement notice and refund the amount so paid.

#### **7.8 Withdrawal of infringement Notice**

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 or her last known place of residence or business.

#### **7.9 Form of Withdrawal of Infringement Notice**

The form of Withdrawal of Infringement Notice issued under these local laws shall be in the form depicted in Form 8 of the Fourth Schedule.

---

## LOCAL LAWS RELATING TO DOGS

**First Schedule**

Local Law	Nature of Offence	Modified Penalty
3.1	Permitting a dog to enter or be in or on a prohibited place	\$50
3.5	Failing to remove the excreta of a dog from any thoroughfare which has been constructed or other public place or any other land	\$40
4.1	Failing to provide means for effectively confining the dog	\$50
5.13.1(a)	Attempting to or causing the unauthorised release of a dog from a pound	\$200
5.13.1 & 5.13.2	Interfering with any pound or vehicle used for the purpose of catching, holding or conveying dogs	\$100
6.11.17	Failing to maintain a kennel establishment in a clean, sanitary and tidy condition	\$50
6.11.18	Failing to dispose of all refuse, faeces and food waste from a kennel establishment daily in an approved manner	\$50
6.11.19	Failing to take all practical measures for the destruction of fleas, flies and vermin	\$50

**Second Schedule****Places where dogs are prohibited absolutely**

The places or parts of the district described below are designated as prohibited areas for the purpose of Clause 3.1 of this local law—

A public building

A shopping centre

A shop or other public business premises, not being where dogs are sold or treated for illness or injury

A house of worship

**Third Schedule****Places which are Dog Exercise Areas**

The reserves/areas described below are designated as Dog Exercise Areas for the purpose of Clause 3.2 of this local law—

Townsite of Leinster

Recreation Ground bounded by Link Road, Gledden Drive and Mansbridge Street

Townsite of Leonora

Recreation Ground South of Rajah Street and all the land contained within Reserve 35852

Both exercise areas can be used at all times except where the public place is used for a function, sports training or recreational activity

**Fourth Schedule**

[Clause 7.4]

Form 7

Western Australia

DOG ACT 1976

**INFRINGEMENT NOTICE**

No. ....

Date ...../...../.....

Shire of Leonora

To <sup>(1)</sup> .....

It is alleged that at <sup>(2)</sup> .....

on the ..... day of ..... 19 .....

you committed an offence in that you <sup>(3)</sup> .....

.....

.....

.....  
(to be signed by an authorised person)

You may dispose of this matter—

- (a) by payment of a penalty of <sup>(4)</sup> \$ ..... Within 21 days of the date of this Notice to  
<sup>(5)</sup> .....; or  
 (b) by having it dealt with by a court.

If this modified penalty is not paid within the time specified, court proceedings may be taken against you.

- <sup>1</sup> Insert name and address of alleged offender.  
<sup>2</sup> Insert place of alleged offence  
<sup>3</sup> Insert short particulars of the offence alleged.  
<sup>4</sup> Insert amount of penalty prescribed.  
<sup>5</sup> Insert address of the office where payment may be made

### Fifth Schedule

[Clause 7.9]

Form 8

Western Australia  
 DOG ACT 1976

### WITHDRAWAL OF INFRINGEMENT NOTICE

No. ....

Date ...../...../.....

<sup>(6)</sup> ..... Local government

To <sup>(7)</sup> ..... Dated ...../...../.....

Infringement Notice No. ....

For the alleged offence of <sup>(8)</sup> .....  
 .....  
 .....

Penalty <sup>(9)</sup> \$ ..... is hereby withdrawn.

\* No further action will be taken

\* It is proposed to institute court proceedings for the alleged offence

.....  
 (to be signed by an authorised person)

<sup>6</sup> Insert name of Local Government

<sup>7</sup> Insert name and address of alleged offender

<sup>8</sup> Insert short particulars of offence alleged

<sup>9</sup> Insert amount of penalty prescribed.

Delete whichever does not apply

Dated this 15th day of June 1999.

The Common Seal of the Shire of Leonora is hereunto affixed by authority of a resolution of the Council in the presence of—

RUSSELL J. LOCKYER, President.  
 JAMES G. EPIS, Chief Executive Officer.



1 9 9 9 0 0 1 3 3 G G