



WESTERN
AUSTRALIAN
GOVERNMENT

Gazette

2755



PERTH, TUESDAY, 6 JUNE 2000 No. 104

SPECIAL

PUBLISHED BY AUTHORITY JOHN A. STRIJK, GOVERNMENT PRINTER AT 3.00 PM

DOG ACT 1976

TOWN OF CLAREMONT

DOGS LOCAL LAW

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TABLE OF CONTENTS

PART 1—PRELIMINARY

- 1.1 CITATION
- 1.2 REPEAL
- 1.3 DEFINITIONS
- 1.4 APPLICATION

PART 2—IMPOUNDING OF DOGS

- 2.1 CHARGES AND COSTS
- 2.2 ATTENDANCE OF POUND KEEPER AT POUND
- 2.3 RELEASE OF IMPOUNDED DOG
- 2.4 NO BREAKING INTO OR DESTRUCTION OF POUND

PART 3—REQUIREMENTS AND LIMITATIONS ON THE KEEPING OF DOGS

- 3.1 DOGS TO BE CONFINED
- 3.2 LIMITATION ON THE NUMBER OF DOGS

PART 4—DOGS IN PUBLIC PLACES

- 4.1 PLACES WHERE DOGS ARE PROHIBITED ABSOLUTELY
- 4.2 PLACES WHICH ARE DOG EXERCISE AREAS
- 4.3 SPECIAL PROVISIONS FOR GUIDE DOGS

PART 5—MISCELLANEOUS

- 5.1 OFFENCE TO EXCRETE

PART 6—ENFORCEMENT

- 6.1 INTERPRETATION
- 6.2 MODIFIED PENALTIES
- 6.3 ISSUE OF INFRINGEMENT NOTICE
- 6.4 FAILURE TO PAY MODIFIED PENALTY
- 6.5 PAYMENT OF MODIFIED PENALTY
- 6.6 WITHDRAWAL OF INFRINGEMENT NOTICE
- 6.7 SERVICE

SCHEDULE 1

DOG ACT 1976

TOWN OF CLAREMONT

DOGS LOCAL LAW

Under the powers conferred by the *Dog Act 1976* and under all other powers enabling it, the Council of the Town of Claremont resolved on 23rd day of May 2000 to make the following local law.

PART 1—PRELIMINARY**1.1 Citation**

This local law may be cited as the *Town of Claremont Dogs Local Law*.

1.2 Repeal

The Town of Claremont Local Law Relating to Dogs, published in the *Government Gazette* on 12 March 1963, is repealed.

1.3 Definitions

In this local law unless the context otherwise requires—

“Act” means the *Dog Act 1976*;

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

“CEO” means the Chief Executive Officer of the local government;

“local government” means the *Town of Claremont*;

“owner” in relation to a dog means—

- (a) the person by whom the dog is ordinarily kept; or
- (b) the person who is deemed by the Act to be the owner of the dog;

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

- (a) the registered owner of the dog; or
- (b) the occupier of any premises where the dog is ordinarily kept or permitted to live;
- (c) a person who has the dog in his possession or under his or her control, but does not include a registered veterinary surgeon, or a person acting on his or her behalf in the course of his or her professional practice, or a police officer or other person acting under statutory duty or in the administration of the Act;

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

“Regulations” means the *Dog Regulations 1976*;

“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

“public place” means any place to which the public has access;

“thoroughfare” has the meaning given to it in section 1.4 of the *Local Government Act 1995*; and

“town planning scheme” means a town planning scheme made by the local government under the *Town Planning and Development Act 1928* which applies throughout the whole or a part of the district.

1.4 Application

This local law applies throughout the Town of Claremont.

PART 2—IMPOUNDING OF DOGS**2.1 Charges and costs**

The following are to be imposed and determined by the local government 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 No breaking into or destruction of 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 or renders not dog proof
 - (i) any pound; or
 - (ii) any vehicle or container used for the purpose of catching, holding or conveying a seized dog,

commits an offence.

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

PART 3—REQUIREMENTS AND LIMITATIONS ON THE KEEPING OF DOGS**3.1 Dogs to be confined**

(1) An occupier of premises on which a dog is kept must—

- (a) cause a portion of the premises on which the dog is kept to be fenced in a manner capable of confining the dog;
- (b) ensure the fence used to confine the 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;
- (c) 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 a proper latch or other means of fastening it;
- (d) maintain the fence and all gates and doors in the fence in good order and condition; and
- (e) 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) Where an occupier fails to comply with subclause (1), he or she commits an offence.

Maximum Penalty: Where the dog kept is a dangerous 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) 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.

PART 4—DOGS IN PUBLIC PLACES**4.1 Places where dogs are prohibited absolutely**

(1) Dogs are prohibited absolutely from entering or being in any of the following places—

- (a) where so indicated by a sign, a public building;
- (b) a theatre;
- (c) all premises or vehicles classified as food premises or food vehicles under the *Health (Food Hygiene) Regulations 1993*;
- (d) a Reserve prescribed in clause 4.2 ; and
- (e) “children’s playground” designated by sand/soft fall area or fence.

(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.

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

4.2 Places which are dog exercise areas

(1) Subject to clause 4.1 and subclause (2) of this clause, for the purposes of sections 31 and 32 of the Act, the following are dog exercise areas within the Town of Claremont—

Reserves

- (a) Reserve 2025 Victoria Avenue—Alex Prior Park
- (b) Agett Road Reserve—Agett & Bay Roads
- (c) Reserve 883 Bay View Terrace—Claremont Park, with the exclusion of designated playground area
- (d) Parry Street Road Reserve Median
- (e) Swan Locations 238 and part Lots 1 and 2 between the Drive-in fence and the lake, Cresswell Park, with the exclusion of Cresswell Oval
- (f) Reserve 24626—MacLagan Park, with the exclusion of designated playground area
- (g) Swan Locations P429, 222—Davies Road, with the exclusion of the Gold Course
- (h) Reserve 76350—Stubbs Terrace/Mofflin Avenue
- (i) Reserve 8003—Rowe Park, with exclusion of designated playground area
- (j) Reserve 24523—Foreshore between Chester Road and Alex Prior Park

(2) Subclause (1) does not apply to—

- (a) land which has been set apart as a children's playground;
- (b) an area being used for sporting or other activities, as permitted by the local government, during the times of such use; or
- (c) a car park.

(3) Whether or not in a dog exercise area, a dog must at all times, in the opinion of an authorised person, be under effective control of the person liable for control of the dog.

(4) Whether or not in a dog exercise area, a dog shall not be a nuisance either of itself or together with other dogs whether or not in the same ownership.

(5) A dog shall be taken to be a nuisance for the purposes of subsection (4) if it behaves in a manner, which has a disturbing effect on the state of reasonable physical, mental or social wellbeing of a person.

(6) Where it is shown that a dog is not under effective control in contravention of subsection (3) or the dog is a nuisance in contravention of subsection (4) the person liable for control of the dog commits an offence.

Maximum Penalty: Dangerous Dog, \$2,000, otherwise \$1,000.

4.3 Special Provisions for Guide Dogs

(1) A person who is blind or partially blind –

- (a) is entitled to be accompanied by a dog bonafide used by the person 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 bonafide engaged in the training of a guide dog.

(Further information is contained in the *Dog Act 1976*, Section 8)

PART 5—MISCELLANEOUS

5.1 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.

Maximum Penalty: \$200.

(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 6—ENFORCEMENT

6.1 Interpretation

In this Part—

“infringement notice” means the notice referred to in clause 6.3; and

“notice of withdrawal” means the notice referred to in clause 6.6(1).

6.2 Modified penalties

(1) The offences contained in Schedule 1 are offences in relation to which a modified penalty may be imposed.

(2) The amount appearing in the third column of Schedule 1 directly opposite an offence is the modified penalty payable in respect of that offence if—

- (a) the dog is not a dangerous dog; or
- (b) the dog is a dangerous 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 1 directly opposite an offence is the modified penalty payable in respect of that offence if the dog is a dangerous dog.

6.3 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.

6.4 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.

6.5 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 local government the amount of the penalty, with or without a reply as to the circumstances giving rise to the offence, and the local government may appropriate that amount in satisfaction of the penalty and issue an acknowledgment.

6.6 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 6.3 cannot sign or send a notice of withdrawal.

6.7 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 local government under the Act, or as ascertained from inquiries made by the local government.

Schedule 1

(clause 6.2)

TOWN OF CLAREMONT

OFFENCES IN RESPECT OF WHICH MODIFIED PENALTY APPLIES

Offence	Nature of offence	Modified penalty	Dangerous Dog Modified Penalty
		\$	\$
2.4(a)	Attempting to or causing the unauthorized release of a dog from a pound	200	400
2.4(b)&(c)	Interfering with any pound or vehicle used for the purpose of catching, holding or conveying dogs	200	
3.1	Failing to provide means for effectively confining a dog	100	200
4.1(2)	Dog in place from which prohibited absolutely	200	400
4.2 (3)	Failure to effectively control a dog in a designated dog exercise area	200	400
4.2 (4)	Dog creating a nuisance in a designated dog exercise area	200	400
5.1(2)	Dog excreting in prohibited place	50	

Dated this 24th day of May 2000.

The Common Seal of the Town of Claremont was affixed by authority of a resolution of the Council in the presence of—

PETER OLSON JP, Mayor.
ARTHUR KYRON, Chief Executive Officer.



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