

DOG ACT 1976

SHIRE OF MUNDARING

DOGS LOCAL LAW

Under the powers conferred by the *Dog Act 1976* and under all other powers enabling it, the Council of the Shire of Mundaring resolved on the 24th day of February 2004 to make the following local law.

PART 1 - PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Mundaring Dogs Local Law*.

1.2 Repeal

The Shire of Mundaring Local Law Relating to Dogs published in the *Government Gazette* of 24 November 1997, is repealed.

1.3 Definitions

In this local law unless the context otherwise requires -

“**Act**” means the *Dog Act 1976*;

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

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

“**local government**” means the Shire of Mundaring;

“**pound keeper**” means a person authorized by the local government in accordance with Part XX of the *Local Government (Miscellaneous Provisions) Act 1960*, to perform all or any of the functions conferred on a “pound keeper” under this local law;

“**regulations**” means the *Dog Regulations 1976*;

“**thoroughfare**” has the meaning given to it in s1.4 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.

Where terms or expressions are not defined in this part they have the meaning given to them in the *Dog Act 1976* or the *Local Government (Miscellaneous Provisions) Act 1960* as the context requires.

1.4 Application

This local law applies throughout the district.

PART 2 - IMPOUNDING OF DOGS

2.1 Charges and costs

The following may 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 section 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 authorized 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.

Penalty: \$2,000

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 subsection (1), he or she commits an offence.

Penalty: \$2,000

3.2 Limitation on the number of dogs

- (1) This section does not apply to premises which have been;
 - (a) licensed as an approved kennel establishment under the local law repealed by section 1.2 or any earlier local law relating to dogs and allowed to continue as a non-conforming use under the Town Planning Scheme; or
 - (b) granted an exemption under section 26(3) of the Act.”
- (2) The limit on the number of dogs and the young of those dogs not over the age of 3 months which may be kept on any premises is, for the purpose of section 26(4) of the Act, shown in the Table.

Table

| Premises having a Land Area of | Limit on Number of Dogs over 3 months |
|---|---------------------------------------|
| Less than 10,000 square metres | 2 |
| 10,000 square metres but less than 20,000 square metres | 3 |
| 20,000 square metres or greater | 4 |

- (3) An entitlement to keep more than 2 dogs over the age of 3 months and the young of those dogs under that age on premises in accordance with subsection (2), is cancelled if the person who keeps the dogs is convicted on two or more occasions during any 18 month period, of an offence against the Act.

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) a public building, unless permitted by a sign;
 - (b) a theatre or picture gardens;
 - (c) all premises or vehicles classified as food premises or food vehicles under section 246G of the *Health Act 1911*;
 - (d) within an area enclosed by the perimeter fencing of a public swimming pool;
 - (e) Lake Leschenaultia (Reserve No 23165);
 - (f) Mundaring Public Cemetery (Reserve No 10083);
 - (g) Wooroloo Public Cemetery (Reserve No 9954); and
 - (h) any other place prohibited to dogs under any other written law.
- (2) If a dog enters or is in a place specified in subsection (1), every person liable for the control of the dog at that time commits an offence.

Penalty: \$1,000

4.2 Places which are dog exercise areas

- (1) Subject to section 4.1 and subsection (2) of this section, for the purposes of sections 31 and 32 of the Act, the following are dog exercise areas –
 - (a) all freehold land owned by the local government; and
 - (b) all reserves owned by the local government or under the care, control and management of the local government.
- (2) Subsection (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;
 - (c) a car park; or
 - (d) any thoroughfare.

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 subsection (3), if a dog excretes contrary to subsection (1), every person liable for the control of the dog at that time commits an offence.

Penalty: \$500.

- (3) The person liable for the control of the dog does not commit an offence against subsection (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 section 6.3; and

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

6.2 Modified penalties

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

6.3 Issue of infringement notice

Where an authorized 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 authorized 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 authorized to issue an infringement notice under section 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
(section 6.2)

Offences in respect of which modified penalty applies

| Offence | Nature of offence | Modified penalty \$ |
|----------------|---|--------------------------------|
| 2.4(a) | Attempting to or causing the unauthorized release of a dog from a pound | 200 |
| 2.4(b) | 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 |
| 4.1(2) | Dog in place from which prohibited absolutely | 100 |
| 5.1(2) | Dog excreting in prohibited place | 50 |

Adopted at an ordinary meeting of the Council of the Shire of Mundaring held on the 24th day of February 2004.

Dated the 24th day of February 2004.

The Common Seal of the **Shire of**)
Mundaring was hereunto affixed)
by authority of Council.)

M N Williams
Chief Executive Officer
(or his delegate)

T S Pashley
Authorised Officer

LOCAL GOVERNMENT ACT 1995

SHIRE OF MUNDARING

DOG AMENDMENT LOCAL LAW 2004

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Mundaring, resolved on the 25 day of January 2005 make the following local law.

Citation

1. This local law may be cited as the “*Shire of Mundaring Dog Amendment Local Law 2004*”.

Principal Local Law

2. In this local law, the *Shire of Mundaring Dog Local Law* made under the *Local Government Act 1995* and as adopted by the Council of the Shire of Mundaring by notice published in the *Government Gazette* on the 16 June 2004, is referred to as the principal local law.

Principal Local Law amended

3. The principal local law is amended by:

Delete section 3.2(1) and insert –

- “3.2(1) This section does not apply to premises which have been;
- (a) licensed as an approved kennel establishment under the local law repealed by section 1.2 or any earlier local law relating to dogs and allowed to continue as a non-conforming use under the Town Planning Scheme; or
 - (b) granted an exemption under section 26(3) of the Act.”

Adopted at an ordinary meeting of the Council of the Shire of Mundaring held on the 25 day of January 2005.

Dated the 27 day of January 2005

The Common Seal of the **Shire of**)
Mundaring was hereunto affixed)
by authority of Council.)

M N Williams
Chief Executive Officer
(or his delegate)

T S Pashley
Authorised Officer