

DOG ACT 1976

CITY OF FREMANTLE

LOCAL LAWS RELATING TO DOGS

In pursuance of the powers conferred on it by the abovementioned Act and of all other powers enabling it, the Council of the City of Fremantle makes the following Local Laws.

Part 1 - Preliminary

1.1 These Local Laws may be cited as the City of Fremantle Local Laws relating to dogs.

1.2 All existing By-Laws of the City of Fremantle relating to dogs are hereby repealed.

1.3 In these Local Laws unless the context otherwise requires:

“Act” means the Dog Act 1976.

“Authorised Officer” means an officer of the Council authorised by the Council to perform duties in accordance with the Act and these Local Laws.

“Council” means the Council of the City of Fremantle.

“District” Means the district of the City of Fremantle.

“Fees Schedule” Means the schedule of fees and charges which form part of the annual budget.

“Reserve” means land set apart for the use and enjoyment of the public and includes parks, squares, beaches and other land acquired by the Council for public purposes.

“Street” means a highway or a thoroughfare which the public are allowed to use and includes every part of the highway or thoroughfare and other things including bridges and culverts appurtenant to it;

Part 2 - Control of dogs

- 2.1 *(Inoperable by regulation 37 inserted in the Government Gazette 201 May 2014 p.1604)*
- 2.2 For the purposes of sections 31 and 32 of the Act the Council dog exercise areas shall be those areas specified in the Seventh Schedule of these Local Laws provided no such area shall constitute a dog exercise area when a Council authorised activity or function is being conducted on it.
- 2.3 A person liable for the control of a dog who permits that dog to excrete on any reserve, street or public place, or on any land without the written consent of the occupier of that land, commits an offence unless the excreta is totally removed forthwith and disposed of either on private land with the written consent of the occupier or in such other manner as the Council may approve.

Part 3 - Permitted number of dogs and fencing of premises

- 3.1 An 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 establishment pursuant to section 27 of the Act, keep or permit to be kept on those premises more than two dogs over the age of 3 months and the young of those dogs under that age.
- 3.2 The owner or occupier of premises within the district on 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 particular shall ensure that:
- (a) any fence or wall used to confine the dog shall be of a type, height and construction which, having regard to the species, age, size and physical condition of the dog prevents the dog from passing over, under or through it; and
 - (b) any gate in the fence or wall is kept closed at all times except when the dog is not on the premises, however nothing in this sub-clause shall prevent a person from opening the gate, in order to immediately enter or leave the premises.

Part 4 - Kennel establishments

- 4.1 An application for a licence to keep an approved kennel establishment shall be in writing in the form in the Fifth Schedule of these Local Laws and shall be supported by evidence that due notice of the proposed use of the land has been given to occupiers of premises in the locality.
- 4.2 An applicant for a licence shall give notice of the proposed use of the land by:
- (a) lodging at least one advertisement advising of the proposed use in a newspaper circulating in the district; and
 - (b) giving written notice of the proposed use to the owners and occupiers of all adjoining properties
- at least 30 days before the application is made to Council.

- 4.3 No person shall erect a kennel at an approved kennel establishment unless plans, specifications and a location plan showing the proposed site of such kennel and of the yard appurtenant thereto have been approved by the Council.
- 4.4 The Council shall not issue a licence for a kennel establishment until it has considered any written objections to the kennel establishment following advertising of the proposed use of the land in accordance with clause 4.2 of these Local Laws.
- 4.5 The owner and occupier of premises for which an approved kennel establishment licence has been granted shall ensure that:
- (a) each kennel has a yard appurtenant thereto;
 - (b) each kennel and each yard and every part thereof is at least 4 metres from the boundaries of the land on which the kennel establishment is located;
 - (c) each kennel and each yard and every part thereof is at least 18 metres from any road or street to which the premises has its main frontage, and in the case of a corner allotment, no part of any kennel or yard or any part thereof is within 9 metres of the boundary of the land to which the premises has its secondary frontage;
 - (d) each kennel and each yard and every part thereof is at least 12 metres from any dwelling, church, school, hall, factory, dairy or premises wherein food is manufactured, prepared or stored for human consumption;
 - (e) the walls of any kennel are constructed of concrete, brick, stone or timber framing sheathed internally and externally with fibro cement sheeting, galvanised iron or other material approved in writing by the Council;
 - (f) the roof of any kennel is constructed of impervious material approved in writing by the Council;
 - (g) the external surfaces of any kennel is painted and maintained to the satisfaction of Council;
 - (h) the roof of any kennel is at least 2 metres from the floor;
 - (i) each kennel yard is securely fenced with a fence not less than 2 metres in height constructed of galvanised iron, timber, galvanised steel link mesh or netting;
 - (j) all gates to kennels and yards are provided with functional catches or means of fastening and are kept shut except when in use;
 - (k) the upper surface of the floor of any kennel is raised at least 100 millimetres above the surface of the surrounding ground and is

constructed of granolithic cement finished to a smooth surface with a fall of not less than 1 in 100 to a drain which is properly laid, ventilated and trapped with all floor washings passing through that drain and being disposed of in accordance with the health requirements of the Council;

- (l) any floor constructed in a yard is constructed in accordance with sub-clause (k) of this clause;
 - (m) every kennel has not less than 2 square metres of floor space and every yard not less than 2.5 square metres of floor space for each dog kept therein;
 - (n) all kennels, yards and feeding and drinking vessels are maintained in a clean, disinfected condition;
 - (o) reticulated water is available at the kennel establishment with a properly supported stand pipe and hose cock for the hosing down of kennels and floored yards.
- 4.6 Before a licence to keep an approved kennel establishment is renewed, the premises may be inspected by an officer authorised by the Council and if the premises are not maintained to the standard required by these Local Laws the Council may refuse to renew the licence.
- 4.7 Fees:
- (a) On lodging an application for a licence, the applicant is to pay a fee to Council.
 - (b) On the issue or renewal of a licence, the licensee is to pay a fee to Council.
 - (c) On lodging an application for the transfer of a valid licence, the transferee is to pay a fee to the Council.
 - (d) The fees referred to in subclauses (a) to (c) are to be imposed and determined by the Council in its annual budget.

Part 5 - Impounding

- 5.1 The Council pound shall be open for the release of impounded dogs at times and on days of the week determined by the Council. At any other reasonable time a dog may be released from the pound upon payment of the applicable fees for the opening of the pound specified in the Fees Schedule of the Budget.
- 5.2 The Council may engage the services of a veterinary surgeon registered pursuant to the Veterinary Surgeons Act 1960 to destroy dogs pursuant to the Act.
- 5.3 The following are to be imposed and determined by the Council in the Schedule of fees and charges which form part of the Annual Budget, 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 5.1; and
- (c) The costs of the destruction and disposal of a dog referred to in section 29(15) of the Act.

Part 6 - Offences

6.1 A person who fails to comply with or commits a breach of any provision of these Local Laws commits an offence and is liable upon conviction to a penalty not exceeding \$2,000.00.

6.2 The payment of any fees in respect to the seizure, care, detention or destruction of a dog does not relieve the owner of that dog of the liability to any penalty under the Act or these Local Laws.

- (i) The offences described in column 3 of the table set out in the Second 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 in column 4 of that table directly opposite an offence is the prescribed modified penalty payable in respect of that offence if dealt with pursuant to this clause.
- (ii) Where an authorised person has reason to believe that a person has committed an offence of the kind described in the Second Schedule, the authorised person may serve on that person a notice in the form prescribed in the Third Schedule (in this clause referred to as “an infringement notice”, informing the person that if the person does not wish to have a complaint of the alleged offence heard and determined by a Court the person may pay to the Council, within the time therein specified, the amount prescribed as the modified penalty.
- (iii) An infringement notice may be served on an alleged offender personally or by posting to the address ascertained from the alleged offender at the time of or immediately following the occurrence giving rise to the allegation of the offence or to the address recorded by the Council on registration records as being the address of the owner of the dog involved in the alleged offence.
- (iv) Should a person who receives an Infringement Notice fail to pay the prescribed penalty within the time specified in the Notice, or within any further time allowed by the Council, the person is deemed to have declined to have the allegation dealt with by way of a modified penalty.
- (v) An alleged offender on whom an Infringement Notice has been served may, within the time specified in the Notice, or any further time allowed by the Council, send or deliver to the Council the amount of the prescribed penalty, with or without a reply as to the circumstances giving rise to the allegation, and the Council may there upon:
 - (a) appropriate the amount in satisfaction of the penalty and issue an acknowledgment; or

- (b) withdraw the Infringement Notice and refund the amount so paid.

- (vi) An Infringement Notice may, whether or not the prescribed penalty has been paid, be withdrawn by the Council by sending a notice in the form prescribed in the Fourth Schedule to the alleged offender at the address specified in the notice or the last known place of residence or business of that person, and in that event any amount received by way of modified penalty shall be refunded and any acknowledgment of the receipt of that amount shall for the purposes of any proceedings in respect of the alleged offence be deemed not to have been issued.

- (vii) The production of an acknowledgment from the Council that the modified penalty has been paid to the Council in relation to an alleged offence shall be a defence to a charge brought in respect to the offence for which the modified penalty was paid.

FIRST SCHEDULE

(Note: First Schedule was deleted by the amendment which was gazetted on 27th February 2001)

SECOND SCHEDULE

Modified Penalty

Item	Local-Law	Nature of Offence	Penalty
1	2.3	Failure to remove dog excreta	\$ 100.00
2	2.1	Permitting a dog to be in a prohibited area	\$ 100.00
3	3.2	Failure to properly fence premises	\$ 100.00

THIRD SCHEDULE

**Dog Act 1976
Western Australia**

INFRINGEMENT NOTICE

No:
.....

Date:
.....

CITY OF FREMANTLE

To (1)

It is alleged that at (2)
..... on the
..... day of 19..... you
committed an offence in that you
(3).....

.....
.....
.....

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

You may dispose of this matter by:

- (a) payment of a penalty of (4) \$..... within 21 days of the date of this Notice to the Council at 8 William Street, Fremantle; or
- (b) 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.

- (1) Insert name and address of alleged offender.
- (2) Insert place of alleged offence.
- (3) Insert short particulars of the offence alleged.
- (4) Insert amount of modified penalty prescribed.

FOURTH SCHEDULE

**Dog Act 1976
Western Australia**

WITHDRAWAL OF INFRINGEMENT NOTICE

No:
.....

Date:
.....

CITY OF FREMANTLE

To (1)

Infringement Notice No: dated
..... for the alleged offence of (2)

..... Penalty (3) \$..... is hereby withdrawn. No further action will be taken / it is proposed to institute Court proceedings for the alleged offence (4).

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

- (1) Insert name and address of alleged offender.
- (2) Insert short particulars of the offence alleged.
- (3) Insert amount of modified penalty prescribed.
- (4) Delete whichever does not apply.

FIFTH SCHEDULE

City of Fremantle

**APPLICATION FOR LICENCE RENEWAL OF LICENCE
TO KEEP APPROVED KENNEL ESTABLISHMENT**

Pursuant to the Dog Act 1976, and the By-Laws of the City of Fremantle made thereunder:

I / We (full name)

.....

of

.....

.....

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

Lot Street Locality

.....

Attached hereto are:

- (a) a plan of the premises showing the location of the kennels and yards and all other building, structures and fences on the subject land;
- (b) plans and specifications of the kennels;
- (c) evidence that due notice of the proposed use of the premises has been given to persons in the locality;
- (d) a remittance for the fee of \$.....

The Kennel Establishment will be used for breeding / boarding domestic dogs (strike out whichever is not applicable).

The maximum number of dogs over the age of 3 months that will be kept there at any one time will be

Where to be used for breeding the breed of dog will be
and the maximum number that will be kept on the premises at any one time will be

Dated this day of 19

.....
Signature of Applicant

Note: Items (a), (b) and (c) may be struck out of the Application For Renewal of a Licence if no change has been made since the previous application.

SIXTH SCHEDULE

City of Fremantle

LICENCE TO KEEP AN APPROVED KENNEL ESTABLISHMENT

I / We

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

This Licence has effect for a period of 12 months from the date hereof.

Dated this day of 19

.....
Town Clerk

SEVENTH SCHEDULE

City of Fremantle

DOG EXERCISE AREAS

(Inoperable by Regulation 37 inserted in the Government Gazette 20 May 2014 p.1604)

Passed at a meeting of the Council of the City of Fremantle held on 20 July 1998.

RICHARD UTTING
MAYOR

RAY GLICKMAN
CHIEF EXECUTIVE OFFICER

Dated this.....day of..... 1998.