

DOG ACT 1976

TOWN OF BASSENDEAN

DOGS LOCAL LAW

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DOG ACT 1976

Town of Bassendean

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 Bassendean resolved on 27 March 2001 to make the following local law.

PART 1 - PRELIMINARY

1.1 Citation

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

1.2 Repeal

The local law Relating to Dogs published in the Government Gazette on 13 July 1984 is repealed.

1.3 Definitions

In this local law, unless the context otherwise requires:

“Act” means the *Dog Act 1976*;

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

“District” means the Local government of the Town of Bassendean;

“Local Government” means the Town of Bassendean;

“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;

“Shop” means a shop or other building used in conjunction with the sale of goods by retail or the supply of services direct to the public, including:

- (a) an eating room, café, restaurant, milk or soft-drink bar;
- (b) a dining room, bar, shop or kiosk portion of a hotel or motel;

- (c) a hairdresser's or barber's shop, public laundry, or under-taker's establishment; and
- (d) market or sale room, show room or service station.

"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 district.

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.

For the charges allocated for 2.1 (a)(b)(c) refer to Schedule 2.

2.2 Attendance of pound keeper at pound

- (1) The Council may establish and maintain or use a pound or pounds for the impounding of dogs seized pursuant to the provisions of the Act or these Local Laws.
- (2) 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.
- (3) Subject to the provisions of section 29(8) of the Act, any dog which has been seized or impounded and which is not claimed may be sold by the pound keeper or other officer authorised by the Council. In this Local Law, the claiming of a dog means and includes delivery of the dog to its owner and payment of the prescribed fee.
- (4) The proceeds of the sale of any dog pursuant to the preceding Local Law are the property of the Council and shall be disposed of in such a manner as the Council thinks fit. The owner of any such dog shall have no claim against the Council or any of its employees in respect of such sale.
- (5) Any owner at whose request a dog is destroyed, whether such dog shall have been seized or impounded or not, shall pay to the Council the fee specified in the Second Schedule hereto.

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 or authorised person.
- (2) The pound keeper or authorised person is not to release a dog seized and impounded to any person unless that person has produced, to the satisfaction of the pound keeper or authorised person, satisfactory evidence:
 - (a) of his or her ownership of the dog, or his or her 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.
- (3) If the pound keeper or other authorised person is satisfied that a person is the owner of a dog impounded or is acting on behalf of the owner thereof, the dog shall be released to such person upon payment of the fees prescribed in the second Schedule hereto.

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: 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 sub clause (1), he or she commits an offence.

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 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.

- | | | |
|-----|-----------------------|---|
| (k) | Anzac Terrace Reserve | Entire Reserve |
| (l) | Parmelia Way Reserve | Entire Reserve |
| (m) | Ashfield Reserve | All that portion of the Reserve,
No. 25430 Location 6851, lying
between Guildford Road and
the line of the fire track. |

(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.

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.

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 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 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)

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)(i)&(ii)	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
5.1	Dog in place from which prohibited absolutely	200	400
6.1(1)	Dog excreting in prohibited place	40	

SCHEDULE 2

(clause 62.1)

For the seizure or impounding of a dog:	\$35.00
For the keeping and maintenance of a dog in a pound:	\$7.00 per day or part of a day
For the destruction of a dog:	\$15.00
For the surrender of a dog:	\$27.50
For the release of an impounded dog. When an authorised person is required to attend the pound outside their normal shift (additional charge)	\$10.00

