

DOG ACT 1976

Town of Port Hedland

TOWN OF PORT HEDLAND LOCAL LAW (DOGS)

In pursuance of the powers conferred upon it by the above mentioned Act, and of all other powers enabling it, the Town of Port Hedland hereby records having resolved on 27 May 1998 to make the following local law:

PART 1—PRELIMINARY

1.0 Repeal

The local law of the Town of Port Hedland relating to dogs published in the Government Gazette on the 14th October 1983 and all subsequent amendments are hereby repealed.

2.0 Citation

This local law may be cited as the “Town of Port Hedland Local Law (Dogs)”.

3.0 Interpretation

In this local law, unless the context otherwise requires—

“Act” means the Dog Act 1976, as amended.

“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 Council. 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.

“district” means the district of the Town of Port Hedland.

“fence” where used in this local law shall include walls and screen walls.

“public building” has the meaning given to it in Section 173 of the Health Act 1911.

“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.

“Regulation” means the Dog Regulations, 1976, as amended.

“street” includes highway, road, lanethoroughfare, carriageway or similar place, or part there of 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.

- 3.1 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 II—IMPOUNDING OF DOGS

4.0

- 4.1 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.
- 4.2 Charges in relation to the seizure and maintenance 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 specified by Council from time to time.
- 4.3 The pound or pounds maintained by Council for the detention of dogs seized shall be attended by an authorised person at such times and on such days as determined from time to time by the Chief Executive Officer.
- 4.4 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.
- 4.5 A dog seized by an officer authorised by the Council may be placed in a pound.
- 4.6 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.
- 4.7 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 4.8 upon payment of the fees specified by Council from time to time, the dog shall be released to such person.
- 4.8 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.

PART III—DOG EXERCISE AREAS

- 5.0 The lands specified in the First Schedule to this local law are designated as dog exercise areas for the purpose of the Act. The exercising of dogs in dog exercise areas are subject to the provisions of the Act.

PART IV—PROHIBITED PLACES

6.0

- 6.1 A person liable for the control of a dog, as defined in Section 3(1) of the Act, shall prevent that dog from entering or being in any of the following places, unless that person is blind or partially blind and is accompanied by a bona fide guide dog or is a guide dog trainer.
 - 6.1.1 A public building.
 - 6.1.2 A shopping Centre.
 - 6.1.3 A shopping mall.
 - 6.1.4 A shop or other public business premises, not being where dogs are sold or treated for illness or injury.

6.1.5 A house of worship.

6.2 The land specified in the Fifth Schedule to this local law is designated as areas pursuant to Section 51(b) of the Act where dogs are prohibited absolutely. The prohibition of dogs in these areas shall be subject to the provisions of the Act.

PART V—KEEPING OF DOGS

7.0 Application for Kennel Establishment Licence

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

7.1.1 a plan showing the details and specifications of all kennel 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;

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

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

7.2.1 give notice of the proposed use of the land in writing to the owners and occupiers of all adjoining land and premises

7.2.2 advertise the intention to do so in a newspaper having circulation in the area at least 14 days before application is made to Council

7.3 The letter of notification and advertisement required in clause 7.2 shall specify that any submissions regarding the application for establishment of kennels on the property being the subject of such letter or advertisement are to be lodged with the Chief Executive Officer within 14 days.

7.4 Council may not approve or register a kennel until it has considered any objection raised to the establishment, operation and maintenance of the kennel upon the premises.

7.5 A license to keep an approved kennel establishment shall be in a form as prescribed by Council from time to time.

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

7.7 A licence to keep an approved kennel establishment shall remain valid for a period of twelve (12) months from the date of issue thereof.

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

7.9 Council shall not permit the establishment or maintenance of a kennel in any area 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.

8.0 Construction of Kennels

- 8.1 The occupier of premises licensed as an approved kennel establishment shall ensure that the dogs in the establishment are kept in kennels and yards appropriate to the breed or kind in question and in accordance with the following requirements—
- 8.1.1 each kennel shall have a yard appurtenant thereto which is capable of retaining the dog within its confines;
 - 8.1.2 each kennel and each yard every part thereof shall be at a distance of not less than 10 metres from the boundary of any street and the land the subject of the licence and 10 metre from any other boundary;
 - 8.1.3 each kennel and each yard and every part thereof shall be at a distance of not less than 20 metres from any dwelling, church, school room, hall, factory, dairy or any premises wherein food is manufactured, prepared, packed or stored for human consumption;
 - 8.1.4 the walls of each kennel shall be of concrete, brick, steel or timber framing sheathed with fibre cement sheeting galvanized iron (or other approved material) internally and externally;
 - 8.1.5 the roof of each kennel shall be constructed of impervious material;
 - 8.1.6 the lowest internal height of the kennel shall be at least two metres from the floor with an average inbuilt height of not less than 2100 mm;
 - 8.1.7 all painted external surfaces of the kennel shall be kept in good condition and well painted;
 - 8.1.8 all gates shall be provided and fitted with proper catches or other means of securing or fastening such gate;
 - 8.1.9 each yard for a kennel shall be securely fenced with a fence not less than two metres in height constructed of material approved by the Council;
 - 8.1.10 the upper surface of a kennel floor shall be at least 100mm above the finished surface of the surrounding ground and shall be constructed of granolithic cement finished to a surface having a fall of not less than 1 in 100 to a drain which shall be properly laid, ventilated and trapped in accordance with the Council's requirements;
 - 8.1.11 all floor washing's shall pass through the drain and shall be disposed of in accordance with the requirements of the Health Act 1911;
 - 8.1.12 the floor area of each kennel shall be an area of not less than 2.5 square metres for every dog kept therein over the age of three months;
 - 8.1.13 the yard of any kennel or group of kennels shall not be less than twice the area of the kennel or group of kennels;
 - 8.1.14 all kennels and yards and all feeding and drinking vessels shall be maintained in a clean, disinfected and sanitary condition and shall be cleansed and disinfected when so ordered by an authorised person or Environmental Health Officer;

- 8.1.15 every approved kennel established shall be provided with reticulated water in the form of a supported stand pipe and hose for the hosing down of kennels and yards.

9.0 Duties of the License Holder

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

- 9.1.1 maintain the established in a clean, sanitary and tidy condition;
- 9.1.2 dispose of all refuse, faeces and food waste daily in a manner approved by the Environmental Health Officer;
- 9.1.3 take all practical measures for the destruction of fleas, flies and other vermin;

PART VI—GENERAL

10.0 Fouling of Streets and Public Places and Reserves

10.1 A person liable for the control of a dog who permits that dog to excrete on any street or other public place or public reserve or on any other land within the district without the consent of the occupier commits an offence unless the excreta is removed forthwith and disposed of either on private land with the consent of the occupier or in such other manner as the Council approves.

11.0 Fencing Requirements

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

- 11.1.1 ensure that the means exist on the premises for effectively confining the dog within the premises; and
- 11.1.2 cause the 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.

11.2 Every part of a fence used to confine a dog shall be of a type, height and construction which, having regard to the breed, age, size and physical condition of the dog, shall be capable of preventing the dog, at all times from passing over, under or through it.

11.3 Where a gate forms part of fence, the gate shall be kept closed at all times except when the dog is not kept on the premises; and be 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.

12.0 Maximum Number of Dogs

12.1 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 two dogs over the age of three months excepting that the young of those dogs up to the age of three months of age may also be kept.

13.0 Penalties

- 13.1 A person who contravenes or fails to comply with any provision of this local law is, upon conviction, liable to a penalty not exceeding \$2000 for each offence

14.0 Modified Penalties

- 14.1 The Council may describe offences as specified in the Second Schedule of the Town of Port Hedland Local Law pursuant to Section 45A of the Act as offences in relation to which a modified penalty applies and prescribe the amount of each modified penalty payable in respect of each offence is dealt with pursuant to this clause.
- 14.2 Where an authorised person has reason to believe that a person has committed an offence of the kind described by Council pursuant to Clause 14.1 a notice may be served on that person in the form prescribed by Council from time to time (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 Council, within the time therein specified, the amount prescribed as the modified penalty.
- 14.3 An Infringement Notice may be served on an alleged offender personally or by posting it to that person's address as ascertained from that person at the time of or immediately following the occurrence giving rise to the allegation of the offence or as recorded by Council pursuant to the Act.
- 14.4 Where a person who received an Infringement Notice fails to pay the prescribed penalty within the time specified in the Notice, or within any further time as in any particular case as allowed by the Council, the person is deemed to have declined to have the allegation dealt with by way of a modified penalty.
- 14.5 An alleged offender on whom an Infringement Notice has been served may, within the time specified in the notice or within any further time as in any particular case as 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 thereupon—
- 14.5.1 appropriate that amount in satisfaction of the penalty and issue an acknowledgment; or
 - 14.5.2 withdraw the Infringement Notice and refund the amount so paid.
- 14.6 An infringement Notice may, whether or not the prescribed penalty has been paid, be withdrawn by the sending as appropriate notice to the alleged offender at the address specified in the notice or to the person's last known place of residence or business and in that event any amount received by way of modified penalty shall be refunded and any acknowledgement of the receipt of that amount shall be for the purpose of any proceedings in respect of the alleged offence be deemed not to have issued.
- 14.7 Where a person does not contest an allegation that the person committed an offence of the kind to which this clause applies, the production of an acknowledgment from the Council that the modified penalty has been paid to the Council is a defence to a charge of the offence in respect of which the modified penalty was paid

FIRST SCHEDULE
TOWN OF PORT HEDLAND
DOG EXERCISE AREAS

The reservations described below are designated as Dog Exercise Areas for the purpose of Clause 5.0 of this Local Law:

Port Reserve 8214—Hedland Dog Club

Port Hedland Foreshore—Reserve 30768

(NOTE: Excluding any area within the abovementioned reserves which is defined as a building and further so as not to interfere with any activity or function being conducted with the approval of Council within the reserve).

SECOND SCHEDULE
TOWN OF PORT HEDLAND
MODIFIED PENALTIES

Item	Section	Nature of Offence	Penalty
1.	6.	Failure to prevent a dog entering or being on a defined premises or area	\$100
2.	9(1.1)	Failure to maintain a kennel establishment in a clean, sanitary and tidy condition	\$50
3.	9(1.2)	Failing to dispose of all refuse, faeces and food waste from a kennel establishment daily in approved manner	\$50
4.	9(1.3)	Failing to take all practical measures for the destruction of fleas, flies and other vermin	\$50
5.	10.	Failure to remove dog excreta	\$50
6.	11.	Premises not capable of effectively confining a dog	\$100

FOURTH SCHEDULE
TOWN OF PORT HEDLAND

LICENCE TO KEEP AN APPROVED KENNEL ESTABLISHMENT

Dog kennels situated on the premises at

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are hereby registered with the Town of Port Hedland.

Name of Occupier.....

Number of Dogs Breed of Dogs

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A licence is hereby granted for the abovementioned occupier to operate a kennel establishment at the said premises for the stated breed and number of dogs.

The licence shall, unless previously revoked, remain valid for a period of 12 months from the date of issue hereof. Application for renewal must be made to the Council during the month prior to the expire date.

DATED THIS:.....day of19.....

SIGNED.....

(Authorised Officer)