

**DOG ACT 1976
LOCAL GOVERNMENT ACT 1995
CITY OF BUNBURY
DOGS LOCAL LAW 2019**

Under the powers conferred by the *Dog Act 1976*, the *Local Government Act 1995* and by all other powers enabling it, the Council of the City of Bunbury resolved on 19 March 2019 to make the following local law.

Part 1 – Preliminary

1.1 Repeal

The *City of Bunbury Local Law Relating to Dogs* published in the *Government Gazette* on 16 April 2002 is hereby repealed.

1.2 Citation

This local law may be cited as the *City of Bunbury Dogs Local Law 2019*.

1.3 Commencement

This local law comes into operation 14 days after the date of its publication in the *Government Gazette*.

1.4 Application

This local law applies throughout the district.

1.5 Definitions

In this local law unless the context otherwise requires –

Act shall mean the *Dog Act 1976*;

assistance animal means an animal referred to in section 9 (Disability discrimination – guide dogs, hearing assistance dogs and trained animals) of the *Disability Discrimination Act 1992* of the Commonwealth;

authorised person means a person authorised by the local government to perform the functions conferred on an authorised person under this local law, and includes a Ranger or Pound Keeper;

CEO shall mean the Chief Executive Officer of the local government;

clause shall mean a clause of this local law;

Council shall mean the Council of the City of Bunbury;

dog has the meaning given to it in the Act;

dangerous dog has the meaning given to it in the Act;

district shall mean the district of the City of Bunbury;

local government shall mean the City of Bunbury;

penalty unit has the meaning given in the *City of Bunbury Penalty Units Local Law 2018*;

pound shall mean any land including any enclosures or structures thereon, established or maintained by Council pursuant to the Act;

public place has the meaning given to it in the Act;

Regulations shall mean the *Dog Regulations 2013*;

Schedule shall mean a schedule of this Local Law; and

veterinarian shall mean a registered veterinary surgeon and defined in section 2 of the *Veterinary Surgeons Act 1960*.

Part 2 – Impounding Dogs

2.1 Charges and costs

- (1) The following are to be imposed and determined by the local government under sections 6.16 to 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) additional fees 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 disposal of a dog referred to in section 29(15) of the Act.
- (2) The payment of fees in respect to the seizure, care, detention or destruction of a dog shall not relieve the owner of liability to a penalty under the Act, Regulations or this local law.

2.2 Attendance at the pound

- (1) The 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.
- (2) A dog seized by a Police Officer or by an authorised person may be placed in the pound.
- (3) An authorised person shall be in attendance at the pound for the release of dogs at such time on such days of the week as determined from time to time by the CEO.
- (4) Subject to the provisions of section 29(8)(a) of the Act, any dog which has been seized or impounded and which is not claimed may be sold by the authorised person or other officer authorised by the Council.
- (5) The proceeds of sale of any dog are the property of the Council and may be disposed of in such a manner as the Council thinks fit.

2.3 Release of impounded dog

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.

Part 3 – Requirements and Limitations on the Keeping of Dogs

3.1 Dogs to be confined

(1) In this part –

fence means any boundary structure, wall, door, gate, window, or physical barrier used to confine the dog within the premises where the dog is being kept, and may also include an electronic boundary fence and collar system that is –

- (a) installed as per the manufacturers recommendations;
- (b) the dog is trained in wearing the collar as per the manufacturers recommendations;
- (c) the fence and wire is properly maintained; and
- (d) the collar and unit is operating and working correctly.

(2) 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 that every gate or door in the fence is kept closed at all times when the dog is on the premises (unless the gate is temporarily opened in a manner that ensures the dog remains confined) and is fitted with a proper latch or other means of fastening it;
- (c) ensure the dog cannot be removed or released from the premises without the permission of the occupier of the property;
- (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.

(3) Notwithstanding subclauses (1) and (2), the confinement of dangerous dogs is dealt with in the Act and Regulations.

3.2 Limitations on number of dogs

(1) The owner or occupier of any premises within the district shall not keep, permit or suffer to remain thereon more than two dogs over the age of three months unless such premises are situated within that area of the district where kennels are permitted under the City of Bunbury Town Planning Scheme and unless such premises are licensed as an approved kennel establishment.

(2) A person wishing to keep more than two dogs but not more than six dogs on any premises may seek, upon application to Council, exemption for those provisions under section 26(3) of the Act.

Part 4 – Miscellaneous

4.1 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) The person liable for the control of the dog does not commit an offence against subclause (1) if any excreta is removed immediately by that person.

Part 5 – Enforcement

5.1 Interpretation

In this part –

infringement notice means the notice referred to in clause 5.3; and
notice of withdrawal means the notice referred to in clause 5.6(1).

5.2 Offences and penalties

- (1) Any person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.
- (2) Unless otherwise specified, any person who commits an offence under this local law is liable on conviction, to a penalty not exceeding \$5,000, and if the offence is of a continuing nature, to a further penalty not exceeding a fine of \$500 in respect of each day or part of a day during which the offence has continued.

5.3 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.
- (4) If this local law expresses a modified penalty as a number of penalty units, the monetary value of the modified penalty is the number of dollars obtained by multiplying the value of the penalty unit, as specified in the *City of Bunbury Penalty Units Local Law 2018* by the number of penalty units specified in this local law.

5.4 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.

5.5 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.

5.6 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.

5.7 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 9 of the First Schedule of the Regulations.
- (2) A person authorised to issue an infringement notice under clause 5.4 cannot sign or send a notice of withdrawal.

5.8 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 – Offences in respect of which modified penalty applies

[Clause 5.3]

Item	Clause	Nature of Offence	Modified Penalty Unit	Dangerous Dog Modified Penalty Unit
1	3.1 (2)	Failing to provide means for effectively confining a dog	20	40
2	4.1(2)	Failing to remove dog excreta from a public place	20	

Dated 25 March 2019

The Common Seal of the City of Bunbury)
was affixed by authority of a resolution)
of the City in the presence of –)

G BRENNAN, Mayor

M OSBORNE, Chief Executive Officer