

## DOG ACT 1976

### SHIRE OF WEST ARTHUR

#### DOGS AMENDMENT LOCAL LAW 2021

Under the powers conferred by the *Dog Act 1976* and under all other powers enabling it, the Council of the Shire of West Arthur resolved on 28 September 2021 to adopt the following local law.

##### 1. Citation

This local law may be cited as the *Shire of West Arthur Dogs Amendment Local Law 2021*.

##### 2. Commencement

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

##### 3. Principal local law

- (a) In this local law, the *Shire of West Arthur Dogs Local Law* published in the *Government Gazette* on 19 April 2000 is referred to as the principal local law.
- (b) The principal local law is amended as follows.

##### 4. Table of Contents amended

Delete reference to clauses 2.2 and 2.4; and insert in order—

- 2.2 Attendance of authorized person at pound
- 2.4 Unauthorized release
- 3.3 Keeping of additional dogs not to cause a nuisance
- 7.1A General penalty

##### 5. Clause 1.3 amended

Clause 1.3 is amended—

- (a) Delete the definitions of—
  - pound keeper;
  - Regulations; and
  - town planning scheme; and
- (b) insert in alphabetical order—
  - “dangerous dog” has the meaning given to it by section 3(1) of the Act;
  - “district” means the district of the Shire of West Arthur;
  - “local planning scheme” means a planning scheme made by the local government under the *Planning and Development Act 2005* which applies throughout the whole or a part of the district;
  - “nuisance” means—
    - (a) an activity or condition which is harmful or annoying and which gives rise to legal liability in the tort of public or private nuisance at law;
    - (b) an unreasonable interference with the use and enjoyment of a person’s ownership or occupation of land; or
    - (c) interference which causes material damage to land or other property on the land affected by the interference;
  - “owner”, in relation to a dog, has the same meaning as in section 3(1) and (2) of the Act;
  - “person liable for control of the dog” has the same meaning as in section 3(1) of the Act;
  - “pound” has the meaning of dog management facility as given in section 3(1) of the Act, and includes a kennel establishment;
  - “public place” has the meaning given to it by section 3(1) of the Act;
  - “Regulations” means the *Dog Regulations 2013*;

##### 6. Clause 2.2 amended

Delete clause 2.2 and insert—

###### 2.2 Attendance of authorized person at pound

An authorized person 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.

##### 7. Clause 2.3 amended

Delete clause 2.3 and insert—

###### 2.3 Release of impounded dog

(1) A claim for the release of a dog seized and impounded is to be made to an authorized person or in the absence of an authorized person, to the CEO.

- (2) An authorized person is not to release a dog seized and impounded to any person unless that person has produced, to the satisfaction of an authorized person, 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.

#### **8. Clause 2.4 amended**

Delete clause 2.4 and insert—

##### **2.4 Unauthorized release**

Unauthorized release of dogs is dealt with by section 43 of the Act.

#### **9. Clause 3.1 amended**

(1) Delete subclause 3.1(1)(c) and insert—

- (c) 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 that the dog remains confined) and is fitted with a proper latch or other means of fastening it;

(2) After subclause (2)—

- (a) delete the words “Penalty: Where the dog kept is a dangerous dog \$2,000, otherwise \$1,000.”
- (b) insert—
  - (3) Notwithstanding subclause (1) and (2), the confinement of dangerous dogs is dealt with in the Act and the Regulations.

#### **10. Clause 3.3 inserted**

After clause 3.2 insert—

##### **3.3 Keeping of additional dogs not to cause a nuisance**

- (1) The local government may cancel licence or exemption referred to in clause 3.2(1) to keep additional dogs—
  - (a) on the request of the licensee;
  - (b) where a dog or dogs are creating a nuisance;
  - (c) following a breach of the Act, the Regulations or this local law; or
  - (d) if the licensee is not a fit and proper person.
- (2) The date a licence is cancelled is to be, in the case of—
  - (a) subclause (1)(a), the date requested by the licensee; or
  - (b) subclause (1)(b), (c) or (d), the date determined in written notice of cancellation of approval.

#### **11. Clause 4.1 amended**

In clause 4.1 insert in alphabetical order—

“kennel establishment” means any premises where more than the number of dogs under clause 3.2 over the age of 3 months are kept, boarded, trained or bred temporarily, usually for profit and where the occupier of the premises is not the ordinary keeper of the dogs;

#### **12. Clause 4.4 amended**

In subclause 4.4(3), delete the word “town” and replace with the word “local”.

#### **13. Clause 4.7 amended**

In subclause 4.7(a), delete the word “town” and replace with the word “local”.

#### **14. Clause 4.9 amended**

In clause 4.9 delete the words “Penalty: Where a dog involved in the contravention is a dangerous dog, \$2,000 and a daily penalty of \$200; otherwise \$1,000 and a daily penalty of \$100.”

#### **15. Clause 5.1 amended**

Delete clause 5.1 and insert—

##### **5.1 Places where dogs are prohibited absolutely**

- (1) Designation of places where dogs are prohibited absolutely is dealt with in the Act.
- (2) If a dog enters or is in a place specified in subclause (1), every person liable for the control of the dog at that time commits an offence.
- (3) Subclause (2) does not apply to a dog who is being used as an assistance animal as defined in the *Disability Discrimination Act 1992* (Commonwealth).

#### **16. Clause 5.2 amended**

Delete clause 5.2 and insert—

##### **5.2 Places which are dog exercise areas**

Designation of places which are dog exercise areas is dealt with in the Act.

#### **17. Clause 6.1 amended**

In clause 6.1 delete the words “Penalty: \$200.”

**18. Clause 7.1A inserted**

After clause 7.1 insert—

**7.1A General penalty**

- (1) A person who commits an offence under this local law is liable, on conviction, to a penalty not exceeding \$5,000.
- (2) If the offence is of a continuing nature, to an additional penalty or part of the day during which the offence has continued not exceeding—
  - (a) if the dog is a dangerous dog and daily penalty of not more than \$500 but not less than \$200; or
  - (b) otherwise, a daily penalty of \$100.

**19. Clause 7.3 amended**

In clause 7.3 delete the words “Form 7” and insert the words “Form 8”.

**20. Clause 7.6 amended**

In clause 7.6 delete the words “Form 8” and insert the words “Form 9”.

**21. Schedule 3 amended**

In Schedule 3 delete the table and insert –

Item	Offence	Nature of offence	Modified penalty \$	Dangerous Dog Modified Penalty \$
1	3.1	Failing to provide means for effectively confining a dog	100	500
2	4.9	Failing to comply with the conditions of a licence	200	500
3	6.1(2)	Dog excreting in prohibited place	100	

Dated 21 October 2021

The Common Seal of the Shire of West Arthur was affixed by authority of a resolution of Council in the presence of—

N. MORRELL, President.  
I. FITZGERALD, Acting Chief Executive Officer.

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