



TERRITORY OF CHRISTMAS ISLAND

Government Gazette

PUBLISHED BY AUTHORITY

No. 7/01

DOGS LOCAL LAW, 2001

16 April 2001

DOG ACT 1976 (WA)(CI)

SHIRE OF CHRISTMAS ISLAND

DOGS LOCAL LAW, 2001

Under the powers conferred by the *Dog Act, 1976 (WA)(CI)* and under all other powers enabling it, the Council of the Shire of Christmas Island resolved on the 7th March 2001 to make the following Local Law.

PART 1 – PRELIMINARY

1.1 Citation

This local law may be cited as the Shire of Christmas Island Dogs Local Law, 2001.

1.2 Definitions

In this local law unless the context otherwise requires:-

“Act” means the Dog Act, 1976 (WA)(CI)

“authorised person” means a person authorised by the local government to perform all or any of the functions conferred on an authorised person under this local law.

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

“local government” means the Shire of Christmas Island

“owner” in relation to a dog means:-

- (a) The person by whom the dog is ordinarily kept; or
- (b) A person who is deemed by subsection(2) to be the owner of the dog;

person liable for the control of the dog” means each of the following:-

- (a) The registered owner of the dog;
- (b) The owner of the dog;
- (c) The occupier of any premises where the dog is ordinarily kept or ordinarily permitted to live; or

- (d) A person who has the dog in his possession or under his control, but does not include –
- a. A registered veterinary surgeon, or a person acting on his behalf, in the course of his professional practice; or
 - b. A police officer or other person acting under statutory duty or in the administration of this Act;

“pound keeper” means a person authorised by the local government to perform all or any of the functions conferred on a “pound keeper” under this local law.

“premises” shall, for the purpose of determining who is the occupier, be taken to refer to any land or building, or part of any land or building, that is or is intended to be occupied as a separate residence from any adjacent tenement;

“Regulations” means the *Dog Regulations, 1976 (WA)(CI)*.

“thoroughfare” has the meaning given to it in section 1.4 of the *Local Government Act, 1995 (WA)(CI)*.

“town planning scheme” means a town planning scheme made by the local government under the *Town Planning & Development Act, 1928 (WA)(CI)* which applies throughout the whole or a part of Christmas Island.

“townsite” means land within the generally accepted developed areas of Christmas Island and includes the airport, central area workshops, horticultural areas, south point and eastern beaches.

1.3 Application

This local law applies to the whole of Christmas Island.

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 (WA)(CI)* –

- (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 day 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).

2.2 Attendance of pound keeper at the pound

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.

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.
2. The pound keeper is not to release a dog seized and impounded to any person unless that person has produced, to the satisfaction of the pound keeper, 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 by any other reasonable means.

2.4 No breaking into or destruction of pound

A person who:-

- a. unless he or she is the pound keeper or a person authorised 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:-
 - any pound; or
 - 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, \$2000; otherwise \$1,000.

PART 3 – REQUIREMENTS AND LIMITATIONS ON THE KEEPING OF DOGS

2.1 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 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 (other than the tethering of the dog) for effectively confining the dog within the premises.

2. Where an occupier fails to comply with subclause 1., he or she commits an offence.

Penalty: Where the dog is a dangerous dog, \$2000; otherwise \$1,000.

2.2 Limitation on the number of dogs

1. This clause does not apply to premises which have been:-
 - a. Licensed under Part 4 as an approved kennel establishment; or
 - b. 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.

PART 4 – APPROVED KENNEL ESTABLISHMENTS

4.1 Interpretation

In this Part and in Schedule 2 –

“license” means a license to keep an approved kennel establishment on premises;

“licensee” means the holder of a license.

“premises”, in addition to the meaning given to it in section 3 of the Act, means the premises described in the application for a license.

“transferee” means a person who applies for the transfer of a license to her or him under clause 4.14.

4.2 Application for a license for approved kennel establishment

An application for a license must be made in the form of that in Schedule 1, and must be lodged with the local government together with:-

- a. plans and specifications of the kennel establishment, including a site plan;
- b. copies of the notices to be given under clause 4.3;
- c. written evidence that either the applicant or another person who will have the charge of the dogs, will reside on the premises, or in the opinion of the local government, sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare;
- d. a written acknowledgment that the applicant has read and agrees to comply with any code of practice relating to the keeping of dogs nominated by the local government; and
- e. the fee for the application for a license referred to in clause 4.10(1).

4.3 Notice of proposed use

- 1) An applicant for a license must give notice of the proposed use of the premises as an approved kennel establishment after the application for a license has been lodged:-
 - (a) once in a newspaper circulating in the district; and
 - (b) to the owners and occupiers of any premises adjoining the premises.
- 2) The notices in subclause 1., must specify that:-
 - a) any written submissions as to the proposed use are to be lodged with the CEO within 14 days of the date of the notice being given; and
 - b) the application and plans and specifications may be inspected at the offices of the local government.
- 3) Where:-
 - a) the notices given under subclause 1., do clearly identify the premises; or
 - b) a notice given under subclause 1(a) is of a size or in a location in the newspaper which, in the opinion of the local government, would fail to serve the purpose of notifying persons of the proposed use of the premises,

then the local government may refuse to determine the application for a license until the notices or notice, as the case may be, is given in accordance with its directions.

4.4 Exemption from notice requirements

Where an application for a license is made in respect of premises on which an approved kennel establishment is either a:-

- a) permitted use; or
- b) use which the local government may approve subject to compliance with specified notice requirements,

under a town planning scheme, then the requirements of clauses 4.2(b), 4.3 and 4.5(a) do not apply in respect of the application for a license.

4.5 When application can be determined

An application for a license is not to be determined by the local government until:-

- a) the applicant has complied with clause 4.2;
- b) the applicant submits proof that the notices referred to in clause 4.3(1) have been given in accordance with that clause; and
- c) the local government has considered any written submissions received within the time specified in clause 4.3(2)(a) on the proposed use of the premises.

4.6 Determination of application

In determining an application for a license, the local government shall have due regard to:-

- a) the matters referred to in clause 4.7;
- b) any written submissions received within the time specified in clause 4.3(2)(a) on the proposed use of the premises;
- c) any economic or social benefits which may be derived by any person in the district if the application for the license is approved;
- d) the effect which the kennel establishment may have on the environment or amenity of the neighbourhood;
- e) whether the approved kennel establishment will create a nuisance for the owners and occupiers of adjoining premises; and
- f) whether or not the imposition of and compliance with appropriate conditions of a license will mitigate any adverse effects of the approved kennel establishment identified in the preceding paragraphs.

4.7 Where application cannot be approved

The local government cannot approve an application for a license where:-

- a) an approved kennel establishment cannot be permitted by the local government on the premises under a town planning scheme; or
- b) an applicant for a license or another person who will have the charge of the dogs will not reside on the premises or, in the opinion of the local government, sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare.

4.8 Conditions of approval

- (1) The local government may approve an application for a license subject to the conditions contained in Schedule 2 and to such other conditions as the local government considers appropriate.
- (2) In respect of a particular application for a license, the local government may vary any of the conditions contained in Schedule 2.

4.9 Compliance with conditions of approval

A licensee who does not comply with the conditions of a license commits an offence.

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.

4.10 Fees

- (1) On lodging an application for a license, the applicant is to pay a fee to the local government.

- (2) On the issue or renewal of a license, the licensee is to pay a fee to the local government.
- (3) On lodging an application for the transfer of a valid license, the transferee is to pay a fee to the local government.
- (4) The fees referred to in subclauses (1) to (3) are to be imposed and determined by the local government under sections 6.16 – 6.19 of the *Local Government Act, 1995 (WA)(CI)*.

4.11 Form of license

The license is to be in the form determined by the local government and is to be issued to the licensee.

4.12 Period of license

- (1) The period of effect of a license is set out in section 27(5) of the Act.
- (2) A license is to be renewed if the fee referred to in clause 4.10(2) is paid to the local government prior to the expiry of the license.
- (3) On the renewal of a license the conditions of the license at the time of its renewal continue to have effect.

4.13 Variation or cancellation of license

- (1) The local government may vary the conditions of a license.
- (2) The local government may cancel a license:-
 - (a) on the request of the licensee;
 - (b) following a breach of the Act, the Regulations or this Local Law; or
 - (c) if the licensee is not a fit and proper person.
- (3) The date a license is cancelled is to be, in the case of:-
 - (a) paragraph (a) of subclause (2), the date requested by the licensee; or
 - (b) paragraphs (b) and (c) of subclause (2), the date determined under section 27(6) of the Act.
- (4) If a license is cancelled the fee paid for that license is not refundable for the term of the license that has not yet expired.

4.14 Transfer

- (1) An application for the transfer of a valid license from the licensee to another person must be:-
 - (a) made in the form determined by the local government;

- (b) made by the transferee;
 - (c) made with the written consent of the licensee; and
 - (d) lodged with the local government together with –
 - i. written evidence that a person will reside at or within reasonably close proximity to the premises the subject of the license; and
 - ii. the fee for the application for the transfer of a license referred to in clause 4.10(3).
- (2) The local government is not to determine an application for the transfer of a valid license until the transferee has complied with subclause (1).
- (3) The local government may approve, whether or not subject to such conditions as it considers appropriate, or refuse to approve an application for the transfer of a valid license.
- (4) Where the local government approves an application for the transfer of a valid license, then on the date of approval, unless otherwise specified in the notice issued under clause 4.15(b), the transferee becomes the licensee of the license for the purposes of this local law.

4.15 Notification

The local government is to give written notice to:-

- (a) an applicant for a license of the local government's decision on her or his application;
- (b) a transferee of the local government's decision on her or his application for the transfer of a valid license;
- (c) a licensee of any variation made under clause 4.13(1);
- (d) a licensee when her or his license is due for renewal and the manner in which it may be renewed;
- (e) a licensee when her or his license is renewed;
- (f) a licensee of the cancellation of a license under clause 4.13(2)(a); and
- (g) a licensee of the cancellation of a license under paragraphs (b) or (c) of clause 4.13(2), which notice is to be given in accordance with section 27(6) of the Act.

4.16 Inspection of kennel

With the consent of the occupier, an authorised person may inspect an approved kennel at any time.

PART 5 – DOGS IN PUBLIC PLACES

5.1 Places where dogs are prohibited absolutely

- (1) Dogs are prohibited absolutely from entering or being in any of the following places:-

- (a) where so indicated by a sign, a public building;
 - (b) a theatre or picture gardens;
 - (c) all premises or vehicles engaged in the sale of food for human consumption including temporary outdoor food stalls and the like;
 - (d) a public swimming pool; and
 - (e) any section or portion of the beach located at Flying Fish Cove.
- (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.

Penalty: Where the dog is a dangerous dog, \$2,000; otherwise \$1,000.

PART 6 - MISCELLANEOUS

6.1 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 owner or 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 immediately removed and disposed of appropriately by that person.

PART 7 - ENFORCEMENT

7.1 Interpretation

In this Part:-

“infringement notice” means the notice referred to in clause 7.3; and

“notice of withdrawal” means the notice referred to in clause 7.6(1)

7.2 Modified penalties

- (1) The offences contained in Schedule 3 are offences in relation to which a modified penalty may be imposed.
- (2) The amount appearing in the third column of Schedule 3 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 3 directly opposite an offence is the modified penalty payable in respect of that offence if the dog is a dangerous dog.

7.3 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.

7.4 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 means of a modified penalty.

7.5 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.

7.6 Withdrawal of an 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 8 of the First Schedule of the Regulations.
- (2) A person authorised to issue an infringement notice under clause 7.3 cannot sign or send a notice of withdrawal.

7.7 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.

PART 8 – FEES AND CHARGES

8.1 Additional fees and charges pursuant to the Local Government Act, 1995 (WA)(Christmas Island)

The following fees and charges in relation to the control and regulation of dogs are imposed pursuant to the provisions of sections 6.16 – 6.19 of the *Local Government Act, 1995 (WA)(CI)*:-

- | | | |
|-----|--|-------|
| (a) | For the seizure and impounding of a dog | \$50. |
| (b) | For the sustenance and maintenance of a dog in a pound per day or part thereof | \$10. |
| (c) | Additional fee for the release of a dog under clause 2.1(b) | \$20. |
| (d) | For the destruction of a dog | \$20. |
| (e) | Approved kennel establishment license application fee | \$50. |
| (f) | Approved kennel establishment license fee or renewal fee (per year) | \$100 |



SCHEDULE 1 (Clause 4.2)
Local Laws Relating to Dogs - APPLICATION FOR A LICENCE FOR AN APPROVED KENNEL ESTABLISHMENT

APPLICATION NUMBER

Property Details

Lot: _____ House No.: _____ Street Name: _____

Location: _____

Applicant Details

Name in full: _____

Postal Address: _____

Phone: _____ Mobile: _____

Owner's Details

Name in full: _____

Postal Address: _____

Phone: _____ Mobile: _____

Signature of Owner: _____

I hereby apply for a license for an approved kennel establishment at (address of premises).....

For (number and breed of dogs).....

* (insert name of person)..... Will be residing at the premises on and from (insert date).....

* (insert name of person)..... will be residing sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare at.....

on and from(insert date..... (* delete where inapplicable)

I confirm that I have read and agree to the provisions of the Shire of Christmas Island Dog Local Laws, the Dog Act & regulations, 1976 (WA)(CI) in regard to the keeping of dogs at the proposed kennel establishment. I understand and agree to adhere to the approved plans and any conditions or notes attached to the licence and notations on the plans.

Signature: _____ Date: _____

OFFICE USE ONLY	Fees	Account No.
	\$	
TOTAL	\$	Receipt number:
Application Number		
DATE APPLICATION RECEIVED:		Date Paid: / /
Counter Staff	Name:	Signature:

Site Inspection: Date: **Signature:**
 Comments

Final Inspection: Date: **Signature:**
 Comments

Rates Clerk Notified: Date:



HOW TO APPLY FOR A LICENCE FOR AN APPROVED KENNEL ESTABLISHMENT

1. First of all - does your proposal require town planning approval? Development consent is required for most developments and uses on Christmas Island.
2. Fill out **ALL** sections of the form overleaf. It is particularly important to ensure that the owner of the property has provided a signature.
3. Supply three (3) copies of each of the following:
 - a. Site Plan - clear dimensions, any trees, existing buildings, drainage and fences
 - b. Landscaping (if applicable)
 - c. Carparking (if applicable)
 - d. Floor Plan and specifications of the kennel establishment
 - e. Copy of notice of proposed use to appear in newspaper
 - f. Copy of notice of proposed use to be given to adjoining premises
 - g. Written evidence that a person will reside –
 - i. At the premises; or
 - ii. Sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare; and
 - h. if the person in item (g) is not the applicant, written evidence that the person is a person in charge of the dogs.

FEES – Fees must be paid in full at the time of lodgement of application.

PLANNING APPROVAL

Should you require planning approval you will be required to supply the following:

- A completed application form for Development Approval;
- 3 copies of site, elevation, landscaping & carparking plans - these plans should detail existing and proposed buildings, vehicular access, carparking and loading areas, existing trees and landscaping and contours and drainage;
- Please contact the Manager Planning Building & Health should you have any queries or require assistance.

SCHEDULE 2

Clause 4.8(1)

Conditions of a license for an approved kennel establishment

An application for an approved kennel establishment may be approved subject to the following conditions.

- 1) Each kennel unless it is fully enclosed must have a yard attached to it.
- 2) Each kennel and each yard must be at a distance of not less than:-
 - a) 25m from the front boundary of the premises and 5m from any other boundary of the premises;
 - b) 10m from any dwelling; and
 - c) 25m from any church, school room, hall, factory, or any premises where food is manufactured, prepared, packed or stored for human consumption.
- 3) Each yard for a kennel must be kept securely fenced with a fence constructed of link mesh or netting or other materials approved by the local government.
- 4) The minimum floor area for each kennel must be calculated at 2.5 times the length of the breed of dog (when it is fully grown), squared, times the number of dogs to be housed in the kennel and the length of the dog is to be determined by measuring from the base of the tail to the front of its shoulder.
- 5) The floor area of the yard attached to any kennel or group of kennels must be at least twice the floor area of the kennel or group of kennels to which it is attached.
- 6) The upper surface of the kennel floor must be:-
 - a) At least 100mm above the surface of the surrounding ground;
 - b) Smooth so as to facilitate cleaning;
 - c) Rigid;
 - d) Durable;
 - e) Slip resistant;
 - f) Resistant to corrosion;
 - g) Non-toxic;
 - h) Impervious;
 - i) Free from cracks, crevices and other defects; and
 - j) Finished to a surface having a fall of not less than 1 in 100 to a spoon drain which in turn must lead to a suitably sized diameter sewerage pipe which must be properly laid, ventilated and trapped in accordance with the health requirements of the local water authority.
- 7) All kennel floor washings shall be discharged to the sewer or other approved on site effluent disposal system to the requirements of the local government.

- 8) The kennel floor must have a durable upstand rising 75mm above the floor level from the junction of the floor and external and internal walls, or internal walls must be so constructed as to have a minimum clearance of 50mm from the underside of the bottom plate to the floor.
- 9) Where a yard is to be floored, the floor must be constructed in the same manner as the floor of any kennel.
- 10) From the floor the lowest internal height of a kennel must be, whichever is the lesser of:-
 - a) 2m; or
 - b) 4 times the height of the breed of the dog in the kennel, when it is fully grown, measured from the floor to the uppermost tip of its shoulders while in a stationary upright position.
- 11) The walls of each kennel must be constructed of concrete, brick, stone or framing sheathed internally and externally with good quality new zincalume or new pre-finished colour coated steel sheeting or new fibrous cement sheeting or other durable material approved by the local government.
- 12) All external surfaces of each kennel must be kept in good condition.
- 13) The roof of each kennel must be constructed of impervious material
- 14) All kennels and yards and drinking vessels must be maintained in a clean condition and must be cleaned and disinfected when so ordered by an authorised person.
- 15) All refuse, faeces and food waste must be disposed of daily into the approved apparatus for the treatment of sewage.
- 16) Noise, odours, fleas, flies and other vectors of disease must be effectively controlled.
- 17) Suitable water must be available at the kennel via a properly supported standpipe and tap.
- 18) The licensee or the person nominated in the application for a license, must, in accordance with the application for the license, continue to reside:-
 - a) at the premises; or
 - b) in the opinion of the local government, sufficiently close to the premises so as to control the dogs, and to ensure their health and welfare.

SCHEDULE 3

Clause 7.2

Offences in respect of which modified penalties apply

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) & (c)	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	50	200
4.9	Failing to comply with the conditions of a license	100	200
5.1(2)	Dog in a prohibited place	200	400
6.1(2)	Dog excreting in a prohibited place	40	

Dated this Tenth.....day of April.....2001

The Common Seal of the }
 Shire of Christmas Island }
 was affixed by authority of a }
 resolution of the Council }
 in the presence of }





 SHIRE PRESIDENT



 CHIEF EXECUTIVE OFFICER