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DOG ACT 1976

LOCAL GOVERNMENT ACT 1995

TOWN OF CLAREMONT

DOGS LOCAL LAW 2012

**DOG ACT 1976
LOCAL GOVERNMENT ACT 1995**

TOWN OF CLAREMONT

DOGS LOCAL LAW 2012

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DOG ACT 1976
LOCAL GOVERNMENT ACT 1995

TOWN OF CLAREMONT

DOGS LOCAL LAW 2012

Under the powers conferred by the *Dog Act 1976*, the *Local Government Act 1995* and under all other powers enabling it, the Council of the Town of Claremont resolved on 5 March 2013 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *Town of Claremont Dogs Local Law 2012*.

1.2 Commencement

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

1.3 Repeal

The *Town of Claremont Local Law Relating to Dogs*, published in the *Government Gazette* on 6 June 2000, is repealed.

1.4 Definitions

In this local law unless the context otherwise requires—

Act means the *Dog Act 1976*;

authorised person means a person appointed 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;

children's playground means an area set aside for use by children and noted by the presence of dedicated children's playground equipment and the presence of either white sand or other form of soft fall surface;

dangerous dog means a dog which is the subject of a declaration under section 33E of the Act declaring it to be a dangerous dog;

district means the district of the local government;

food premises means any premises or vehicle in which a food business, as defined in section 10 of the *Food Act 2008*, is being carried on;

food transport vehicle has the meaning given to it in the *Food Act 2008*;

local government means the Town of Claremont;

local planning scheme means a local 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;

owner has the meaning given in the Act;

person liable for the control of the dog mean 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/her possession or under his/her control but does not include;
- (e) a registered veterinary surgeon, or a person acting on his behalf, in the course of his professional practice; or
- (f) a police officer or other person acting under statutory duty or in the administration of the 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*;

Schedule means a schedule in this local law;

town planning scheme means a town 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;

townsite means—

- (a) land constituted, defined, or reserved as the site of a town or village under the *Land Administration Act 1997*;
- (b) land subdivided or laid out as the site for a townsite, township, or village, in accordance with the subdivisional plan, registered in the Office of Titles or the Department of Land Administration; and
- (c) land within a town or city under the *Local Government Act 1960* that is outside the metropolitan region.

1.5 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 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) 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.

2.2 Attendance of pound keeper at 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 Chief Executive Officer.

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 Chief Executive Officer.

(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 on a microchip implanted in the dog.

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—
 - (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 subclause (1), he or she commits an offence.
- Penalty:** Where the dog kept is a dangerous dog, \$2,000; otherwise \$1,000, and in addition a daily penalty of \$100 for each day during which the offence continues.

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.

PART 4—DOGS IN PUBLIC PLACES

4.1 Places where dogs are prohibited absolutely

- (1) Subject to section 8 of the Act and section 66J of the *Equal Opportunity Act 1984*, 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 food premises and food transport vehicles;
 - (d) within an area enclosed by the perimeter fencing of a public swimming pool;
 - (e) a children's playground;
 - (f) Lake Claremont which is located on or in part of the following lots 1, 2, 5, 6, 7, 8, 58, 150, 900 as indicated in Schedule 2; and
 - (g) any other place prohibited to dogs under any other written law.
- (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.

4.2 Places which are dog exercise areas

- (1) Subject to clause 4.1 and subclause (2) of this clause, for the purposes of sections 31 and 32 of the Act, the following are dog exercise areas within the district—
- (a) Reserve 2025 Victoria Avenue—Alex Prior Park;
 - (b) Agett Road Reserve—Agett and Bay Roads;
 - (c) Reserve 883—Bay View Terrace—Claremont Park, with the exclusion of designated playground area;
 - (d) Parry Street Road Reserve Median;
 - (e) Reserve 24626—MacLagan Park, with the exclusion of designated playground area;
 - (f) Portion of Lot 900 (known as Lake Claremont Parkland);
 - (g) Reserve 76350—Stubbs Terrace/Mofflin Avenue;
 - (h) Reserve 8003—Rowe Park, with exclusion of designated playground area; and
 - (i) Reserve 24523—Foreshore between Chester Road and Alex Prior Park.
- (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.
- (3) Whether or not in a dog exercise area, a dog must at all times, in the opinion of an authorised person, be under effective control of the person liable for the control of the dog.
- (4) Whether or not in a dog exercise area, a dog shall not be a nuisance either of itself or together with other dogs whether or not in the same ownership.
- (5) A dog shall be taken to be a nuisance for the purposes of subsection (4) if it behaves in a manner, which has a disturbing effect on the state of reasonable physical, mental or social wellbeing of a person.
- (6) where it is shown that a dog is not under effective control in contravention of subsection (3) or the dog is a nuisance on contravention of subsection (4) the person liable for the control of the dog commits an offence.

Maximum Penalty: Dangerous Dog, \$2,000, otherwise \$1,000.

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: \$500.

(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 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.

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

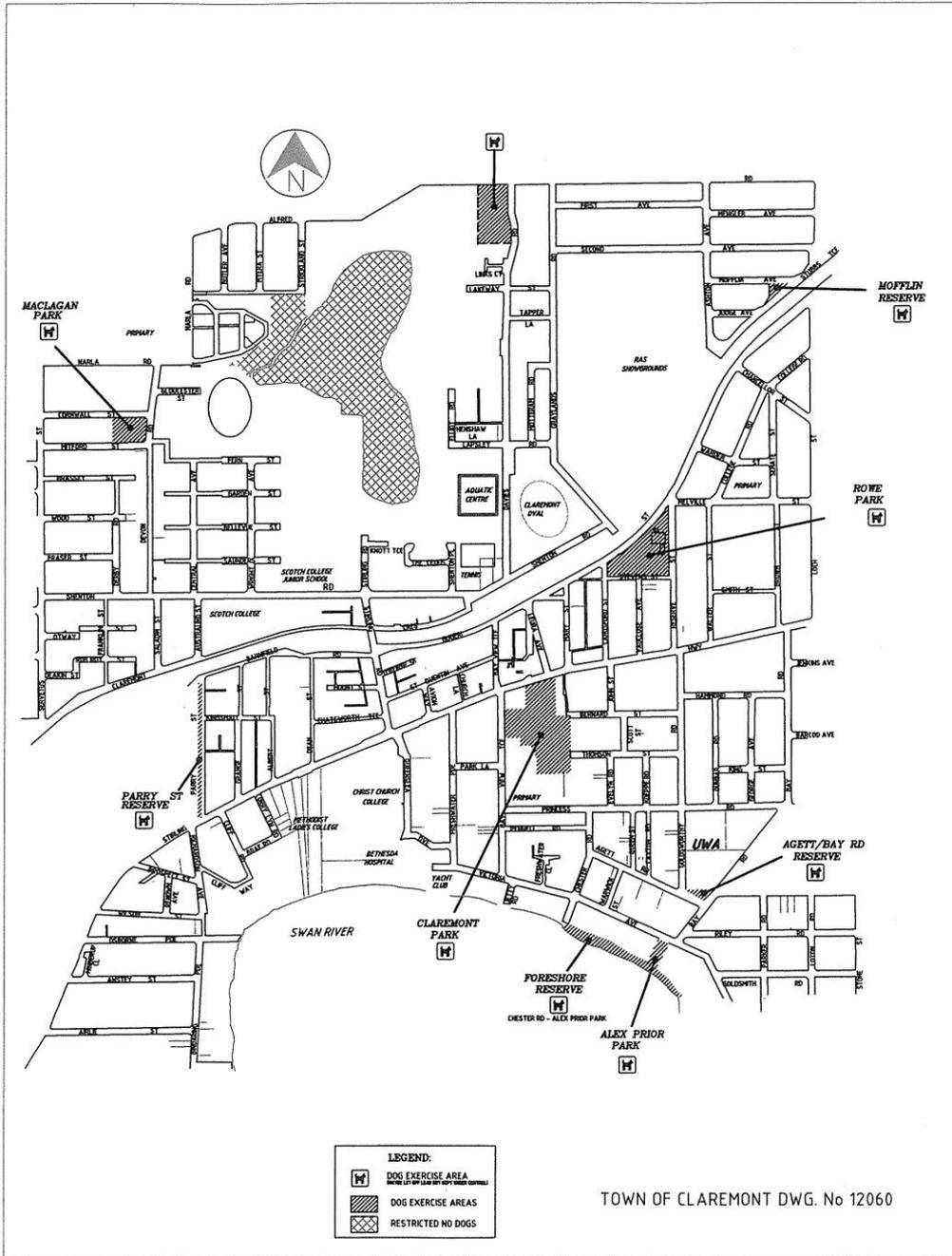
(1) Whether or not the modified penalty has been paid, an authorised person may withdraw an infringement notice by sending a notice in the form of Form 8 of the First Schedule of the Regulations.

(2) A person authorised to issue an infringement notice under clause 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
Town of Claremont
Dogs Local Law 2012
DOG EXERCISE AREA MAP



Schedule 2
MODIFIED PENALTIES

(clause 6.2)

Offence	Nature of offence	Modified Penalty \$	Dangerous Dog Modified Penalty \$
2.4(a)	Attempting to or causing the unauthorised release of a dog from a pound	200	400
2.4(b)	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
5.1(2)	Dog in place from which prohibited absolutely	200	400
6.1(2)	Dog excreting in prohibited place	100	

Dated 12 April 2013.

The Common Seal of the Town of Claremont was affixed by authority of a resolution of the Council in the presence of—

JOCK BARKER, Mayor/ President.
STEPHEN GOODE, Chief Executive Officer.
