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LOCAL GOVERNMENT ACT 1995

SHIRE OF COLLIE

LOCAL LAW No. 2—DOGS

LOCAL GOVERNMENT ACT 1995**SHIRE OF COLLIE****LOCAL LAW No. 2—DOGS**

Under the powers conferred by the Local Government Act 1995, the Council of the Shire of Collie resolved on the 27th April 1999 to adopt the following Local Law:

Part I—Preliminary**1.1 Repeal**

The Shire of Collie By-Laws Relating to Dogs published in the *Government Gazette* on 8th December 1989, are hereby revoked.

1.2 Citation

- (1) This Local Law may be cited as the Shire of Collie Local Law No. 2—Dogs.
- (2) In the clauses to follow, this Local Law is referred to as “Local Law No. 2—Dogs.”

1.3 Interpretation

- (3) In this Local Law, unless the context requires otherwise—
 - “Act” Means the Dog Act 1976 as amended.
 - “Authorised Person” means a person who is authorised by or under Section 29 of the Dog Act 1976.
 - “Council” means the Council of the Municipality of the Shire of Collie.
 - “District” means the district of the Municipality of the Shire of Collie.
 - “Chief Executive Officer (CEO)” means the person employed as the Chief Executive Officer of the Shire of Collie. Such person or the person duly delegated by the CEO the responsibility, shall exercise general supervision and control over 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. Any reference to the Council having powers to do something at its discretion or a reference to the Council forming an opinion prior to doing anything shall be deemed to include a reference the “CEO” or to any employee of the Local Government to whom the “CEO” has delegated the exercise of any powers or discharge of any duties in relation to this Local Law.
 - “Public Place” means a public place as defined in Section 3(1) of the Dog Act 1976.
 - “Public Building” means a public building as defined in Section 173 of the Health Act 1911.
 - “Regulations” means the Dog Act Regulations 1976, as amended.
 - “Townsite” means a townsite as defined under Section 3(1) of the Dog act 1976.
 - “Fence” where used in this local law shall include walls and screen walls.

All other words and expressions have the same meaning as they have in the Act.

Part II—Impounding Dogs

- (4) 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.
- (5) Charges in relation to the seizure and maintenance of a dog in accordance with Section 29(4) of the Act, and the fees payable in relation to a dog having been destroyed at the request of its owner are specified in the First Schedule to this Local Law.
- (6) 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 Council.
 - (a) The pound keeper or other employee authorised by the Council shall be in attendance at the pound for the release of dogs at such times and on such days as determined from time to time by Council.
 - (b) No person shall—
 - (i) Unless a pound keeper or other employee of the Council duly Authorised in that regard, release or attempt to release a dog from the pound;
 - (ii) Destroy, break into, damage or in any way interfere with or render not dog proof any pound;
 - (iii) Destroy, break into, or in any way interfere with any vehicle, trailer, cage, or any container used for the purpose of catching, holding, or conveying dogs which have been seized.

(7) 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.

(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 a dog and his authority to take delivery of it. An Authorised person may accept such proof as he considers satisfactory and no person shall have any right of action against him or Council in respect of delivery of a dog in good faith.

- (a) If the owner or person apparently acting on behalf of the owner of a dog seized or impounded claims such dog then the dog shall be released to that person upon payment of the fees specified in the First Schedule hereto together with any veterinary fees which may have been incurred by Council in relation to treatment of the dog.
- (b) If a dog shall not be claimed and said fees paid within 72 hours of it being impounded, or if a dog having a collar around its neck with a registration tag affixed thereto shall not be claimed and the said fees paid within 72 hours of the service of a notice upon the owner, the pound keeper or other employee Authorised by the Council may sell, destroy or otherwise dispose of the dog.
- (c) Upon the sale of a dog the proceeds of sale shall be the property of the Council and may be disposed of in such manner as the Council thinks fit. The owner of a dog sold pursuant to this Local Law shall have no claim against the Council in respect of the proceeds thereof.
- (d) Notwithstanding anything herein contained, but subject to the provision of sub-section (12) of Section 29 of the Dog Act 1976 as amended, any dogs seized or impounded may at any time be destroyed upon the written authority of a registered veterinary surgeon, medical practitioner, or environmental health officer.

Part III—Dog Exercise Areas

(9) The lands specified in the Third Schedule to this Local Law are designated as Dog Exercise Areas for the purpose of the Act. The exercising of the dogs in dog exercise areas are subject to the provisions of the Act.

Part IV—Restricted Areas

(10) Except for a dog—

- (a) being used for guiding a blind person
- (b) being trained for the purposes of becoming a guide dog for the blind; or
- (c) being used in accordance with Section 8 (3) of the Act whereby the Minister has authorised a person to be accompanied by a specified dog,

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—

- (a) any public building, shopping centre or shopping mall;
- (b) any building construction site; or
- (c) any shop not being a shop where dogs are sold or treated for illness or injury.

Part VI—Keeping of Dogs

Fencing Requirements

11. (a) The owner or occupier of premises within a townsite on which a dog is kept shall cause the premises or portion of the premises to be fenced or enclosed in a manner capable of confining the dog in accordance with the provisions of this Local Law.
- (b) A fence used to confine a dog and every part of such fence shall, having regard to the species, age, size and physical condition of the dog, prevent the dog from passing over, under or through the fence.
- (c) Every gate or door within a fence shall have a proper latch or other means of fastening and every such fence, gate or door shall be maintained in good order and condition.

Maximum Number of Dogs

12. The owner or occupier of any premises within the district shall not, unless the premises have been granted exemption under section 26(3) of the Act, keep, permit or suffer to remain thereon more than two dogs over the age of three months, unless such premises are licenced as an approved kennel establishment.

Application for a Kennel Establishment Licence

13. A kennel shall not be erected unless and until plans, specification and location plan showing the proposed site for such kennel and of the yard appurtenant thereto have been approved by Council.

14. An application for a licence to keep an approved kennel establishment shall be in the form of the Sixth Schedule attached to this Local Law and shall be accompanied by two copies of a plan showing the details and specifications of all kennels and yards appurtenant thereto and showing the distances from the said kennels to the boundaries of the land the subject of the application and all buildings on the said land together with such other information as the Council may require.

15. Unless the Council directs otherwise a person seeking the issue of a licence to keep an approved kennel establishment shall at least 14 days before the application is made to Council—

- (a) publish in a newspaper circulating in the district a notice of their intention to submit an application for a licence specifying that any interested person may within 14 days after the date of the publication object to or make representation in respect of the application in writing directly to the Council; and
- (b) forward a notice in the form of the Fifth Schedule attached to this Local Law to the owners and occupiers of all adjoining land and premises.

16. A licence to keep an approved kennel establishment shall be in the form of the Sixth Schedule attached to this Local Law and shall be approved by the Chief Executive Officer or the person duly delegated by the CEO the responsibility.

17. The fees payable for the issue of a licence to keep an approved kennel establishment and for the renewal of such licence are specified in the First Schedule.

18. A licence to keep an approved kennel establishment shall remain valid until 31st October next following the issue thereof and shall fall due for renewal in accordance with this Local Law on the first day of November each year.

19. A person seeking the renewal of a licence to keep an approved kennel establishment shall make application to the Council in the form of the Fourth Schedule attached to this Local Law. The Council may at its discretion require that the person seeking the renewal of the registration give notice of their intention as provided for in Clause 15 of this Local Law.

Construction of Kennels

20. The occupier of premises licenced as an approved kennel establishment shall ensure that the dogs in that establishment are kept in kennels and yards appropriate to the breed or kind in question and in accordance with the following requirements—

- (a) each kennel shall have a yard appurtenant thereto which is capable of retaining the dog within its confines;
- (b) each kennel and each yard and every part thereof shall not be at any less distance than 10 metres from the boundaries of the land in occupation of the occupier and the subject of the licence;
- (c) each kennel and each yard and every part thereof shall not be at any less distance than 25 metres from any road or street to which the premises has its main frontage. In the case of a corner allotment, no part of any kennel or yard shall be at any less distance than 8 metres from the side boundary to which the premises has its secondary frontage.
- (d) each kennel and each yard and every part thereof shall be at a distance of not less than 10 metres from any dwelling, church, school room, hall, factory, dairy or any premises wherein food is manufactured, prepared, packed or stored for human consumption.
- (e) the walls shall be constructed of concrete, brick, stone, or timber frame lined on both sides with either contoured fibre cement sheeting or galvanised iron.
- (f) the roof of each kennel shall be constructed of impervious material;
- (g) the lowest internal height of the kennel shall be at least 2 metres from the floor;
- (h) all painted external surfaces of the kennel shall be kept in good condition and well painted and be subsequently repainted when directed by an officer of the Council;
- (i) all gates shall be provided and fitted with proper catches or means of securely fastening;
- (j) each yard shall be securely fenced and kept securely fenced with a fence not less than 2 metres in height constructed of link mesh or netting, galvanised iron or timber, or of any other material approved by the Council.
- (k) the upper surfaces of a kennel floor shall be at least 10 centimetres above the surface of the surrounding ground and shall be constructed of granolithic cement finished to a surface having a fall not less than 1 in 100 to a drain which shall be properly laid, ventilated and trapped in accordance with the health requirements of the Council;
- (l) all floor washings shall pass through the drain and shall be disposed of in accordance with the health requirements of the Council;
- (m) 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;
- (n) the yard of any kennel or group of kennels shall not be less than twice the area of the kennel or group;
- (o) 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 health surveyor;-
- (p) every approved kennel establishment shall be provided with reticulated water in the form of a supported stand pipe and hose for the hosing down of the kennels and yards.

Duties of the Licence Holder

21. The holder of a licence to keep an approved kennel establishment shall—

- (a) maintain the establishment in a clean, sanitary and tidy condition;
- (b) dispose of all refuse, faeces and food waste daily in a manner approved by the Council;
- (c) take all practical measures for the destruction of fleas, flies and other vermin.

22. The occupier of any premises which have been licenced by the Council as an approved kennel establishment shall not allow, permit or suffer any dog to be at large or roam outside the kennel or exercise yard, except for the purpose of reasonable exercise where a competent person is in proximity to the dog.

23. In the event of a person not renewing the kennel registration on the date set out in Clause 18 of this Local Law, or the Council refusing to renew the registration if the kennels are not kept to the standard specified, the Council may require that the kennels be demolished to the satisfaction of Council.

Part VII—General

Fouling of Streets and Public Places and Reserves

24. Any person liable for the control of a dog as defined in Section 3(1) of the Act, who allows that dog to excrete on any street or public place or reserve within District commits an offence unless the excreta are removed forthwith and disposed of either on private land with the consent of the occupier of in such other manner as the Council may approve.

25. Subject to Clause 24.1 of this Local Law, any person liable for the control of a dog as defined in Section 3(1) of the Act, who allows that dog to excrete on any land within the District without the consent of the occupier of that land commits an offence unless the excreta are removed forthwith and disposed of either on private land with the consent of the occupier or in such other manner as the Council may approve.

Penalties

26. Any person who contravenes or fails to comply with any provision of this Local Law commits an offence and shall upon conviction be liable to a penalty not exceeding \$5000 for each offence and if the offence is a continuing one to a further penalty not exceeding \$500 for every day or part of a day during which the offence is continued.

27. The offences described in the Second Schedule are prescribed pursuant to Section 45A(2) of the Act as offences in relation to which a modified penalty applies and the amount appearing directly opposite each such offence is the prescribed modified penalty payable in respect of that offence.

28. (a) Where any Authorised person has reason to believe that a person has committed an offence against this Local Law as prescribed in the Second Schedule, he/she may serve on that person an Infringement Notice and the Infringement Notice issued under this Local Law shall be in the form depicted in Form 2 of Schedule 1 of the Local Government (Functions & General) Regulations 1996.
- (b) An infringement notice may be served on an alleged offender personally or by posting it to his address as ascertained from him, 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.
- (c) Where a person who receives an infringement notice fails to pay the prescribed penalty within the time specified in the notice, or within such further time as may in any particular case be allowed, he/she is deemed to have declined to have the allegation dealt with by way of a modified penalty.
- (d) An alleged offender on whom an infringement notice has been served may, within the time specified in that notice or such further time as may in any particular case be allowed, 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—
- (i) appropriate that amount in satisfaction of the penalty and issue an acknowledgement; or
- (ii) withdraw the infringement notice and refund the amount so paid.
- (e) An infringement notice may, whether or not the prescribed penalty has been paid, be withdrawn by the Chief Executive Officer by sending a notice in the prescribed form to the alleged offender at the address specified in the notice or his last known place of residence or business.
- (f) The prescribed form of Withdrawal of Infringement Notice issued under this Local Law shall be in the form depicted in Form 3 of Schedule 1 of the Local Government (Functions & General) Regulations 1996.

First Schedule

SHIRE OF COLLIE

FEES

	\$
For the seizure and/or impounding of a dog.....	20
For the sustenance and maintenance of a dog in a pound (fee per day or part of a day)	5
For the destruction of a dog	10
For the issue of or renewal of a Licence for a Kennel establishment	30

Second Schedule
SHIRE OF COLLIE
MODIFIED PENALTIES

Item	Clause	Nature of Offence	Modified Penalty	\$
1.	10	Permitting a dog to be in a prohibited place that is not a public place—contrary to Section 33A of the Dog Act 1976	30	
2.	24 & 25	Permitting a dog to excrete on a street or public place or other land, without the consent of the occupier of that land and failing to remove and dispose of such excreta in an approved manner .	30	
3.	6(b)(a)	Attempting to or causing the unauthorised release of a dog from a pound.	500	
4.	6(b)(b)	Destroy, break into, damage or in any way interfere with or render not dog proof any pound;	500	
5.	6(b)(c)	Interfering with any pound or any vehicle used for the purpose of catching, holding or conveying dogs.	500	

Third Schedule
SHIRE OF COLLIE
DOG EXERCISE AREAS

Collie Townsite—

- (1) Reserve 6684 (lot 328 being Collie Recreation Ground)
- (2) Reserve 35105 (lot 2045 & Wellington Location 5244 being Lions Park)
- (3) Reserve 15195 (Wallsend Ground)
- (4) Reserve 30555 (Roche Park)

Allanson Townsite—

- (1) Reserve 16403 (Allanson Recreation Ground)

Fourth Schedule
SHIRE OF COLLIE
APPLICATION FOR LICENCE/RENEWAL OF LICENCE TO KEEP AN APPROVED KENNEL ESTABLISHMENT

In conformity with the Dog Act 1976, and the Shire of Collie Local Law No. 2—Dogs,

I/We (full names)

Of

Hereby apply for a licence/the renewal of a licence (strike out whichever is not applicable) to keep an approved kennel establishment at:

Lot Street Locality

Owner (name and address)

Occupier (name and address)

Purpose for which the kennel is to be used

.....

Number of Dogs to be kept

Breed of Dogs

Attached hereto are—

- (i) a plan of the premises showing the location of the kennels and yards and all other buildings, structures and fences;
- (ii) plans and specifications of the kennels;
- (iii) evidence that notice of the proposed use of the land has been given—
 - (a) by advertising at least once in a newspaper circulating in the district; and
 - (b) in writing to the owners and occupiers of all adjoining land and premises;
- (iv) The fee of \$

Dated the day of 19

.....
Signature of Applicant

Note: Items (i), (ii) and (iii) may be struck out if the application is for the renewal of a licence and if no change has been made since the previous application and if the Council does not make an election as provided for in Clause 19 of its Local Law No. 2—Dogs.

Fifth Schedule
SHIRE OF COLLIE
NOTICE OF INTENTION BY AN OWNER OR OCCUPIER TO MAKE APPLICATION
FOR KENNEL LICENCE

To—

Please take notice that I/We intend to make application to the Shire of Collie for a kennel licence in respect of premises situated at—

Any objection to or representations in respect of this application shall be made in writing addressed to—

The Chief Executive Officer
 Shire of Collie
 87 Throssell Street
 Collie WA 6225

Within fourteen (14) days of the date hereof.

Other information concerning the proposal

Dated the day of 19

.....
 Signature of Applicant

Sixth Schedule
SHIRE OF COLLIE
LICENCE TO KEEP AN APPROVED KENNEL ESTABLISHMENT

Licence No.

This is to certify that (1)
 is/are the holder(s) of a licence to keep an approved kennel establishment at—

This licence remains valid until the 31st October next following the date of issue.

Dated the day of 19

.....
 (Authorised Officer)

(1) Insert name/s of licence holder(s).

Seventh Schedule
SHIRE OF COLLIE
REFUSAL TO ISSUE A KENNEL ESTABLISHMENT LICENCE

To—

Surname

Given Names

Address

This is to certify that your application dated

To establish dog kennels on land being Lot/Location

Street/Road

Has been refused.

Reasons for refusal are

Dated the day of 19

.....
 (Authorised Officer)

Dated: 28th April 1999.

The Common Seal of the Shire of Collie was hereunto affixed by authority of a decision of the Council in the presence of—

ROSANNE B. PIMM, Shire President.
 IAN H. MIFFLING, Chief Executive Officer.



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