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SHIRE OF COLLIE

LOCAL GOVERNMENT ACT 1995
CEMETERIES ACT 1986

**CEMETERIES LOCAL
LAW 2010**

LOCAL GOVERNMENT ACT 1995
DOG ACT 1976

DOGS LOCAL LAW 2010

**LOCAL GOVERNMENT ACT 1995
CEMETERIES ACT 1986**

SHIRE OF COLLIE

CEMETERIES LOCAL LAW 2010

ARRANGEMENT

PART 1—PRELIMINARY

- 1.1 Citation
- 1.2 Application
- 1.3 Commencement
- 1.4 Repeal
- 1.5 Interpretation

PART 2—ADMINISTRATION

- 2.1 Powers and functions of CEO

PART 3—APPLICATION FOR FUNERALS

- 3.1 Application for burial
- 3.2 Applications to be accompanied by certificates etc
- 3.3 Certificate of identification
- 3.4 Minimum notice required

PART 4—FUNERAL DIRECTORS

- 4.1 Funeral director's licence expiry
- 4.2 Single funeral permits
- 4.3 Application refusal

PART 5—FUNERALS

Division 1—General

- 5.1 Requirements for funerals and coffins
- 5.2 Funeral processions
- 5.3 Vehicle entry restricted
- 5.4 Vehicle access and speed limitations
- 5.5 Offenders may be ordered to leave
- 5.6 Conduct of funeral by Board

Division 2—Placement of Ashes

- 5.7 Disposal of ashes

PART 6—BURIALS

- 6.1 Depth of graves
- 6.2 Mausoleum, etc

PART 7—MEMORIALS AND OTHER WORK

Division 1—General

- 7.1 Application for monumental work
- 7.2 Placement of monumental work
- 7.3 Removal of rubbish

- 7.4 Operation of work
- 7.5 Removal of materials
- 7.6 Hours of work
- 7.7 Unfinished work
- 7.8 Use of wood
- 7.9 Plants and trees
- 7.10 Supervision
- 7.11 Australian War Graves
- 7.12 Placing of glass domes and vases

Division 2—Lawn Section

- 7.13 Specification of monuments
- 7.14 Headstones

Division 3—Memorial Plaque Section

- 7.15 Requirements of a memorial plaque

Division 4—Licensing of Monumental Masons

- 7.16 Monumental mason's licence
- 7.17 Expiry date, non-transferability
- 7.18 Carrying out monumental work
- 7.19 Responsibilities of the holder of a monumental mason's licence
- 7.20 Cancellation of a monumental mason's licence

PART 8—GENERAL

- 8.1 Animals
- 8.2 Guide dogs
- 8.3 Damaging and removing of objects
- 8.4 Withered flowers
- 8.5 Littering and vandalism
- 8.6 Advertising
- 8.7 Obeying signs and directions
- 8.8 Removal from the cemetery

PART 9—OFFENCES AND MODIFIED PENALTY

- 9.1 General
- 9.2 Modified penalties

Schedule 1—Modified penalties

Schedule 2—Form 1—Infringement notice

Schedule 3—Form 2—Withdrawal of infringement notice

**LOCAL GOVERNMENT ACT 1995
CEMETERIES ACT 1986**

SHIRE OF COLLIE

CEMETERIES LOCAL LAW 2010

Under the powers conferred by the *Cemeteries Act 1986*, the *Local Government Act 1995* and under all other powers, the Council of the Shire of Collie resolved on 27 July 2010 to adopt the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Collie Cemeteries Local Law 2010*.

1.2 Application

This local law applies throughout the district of the Shire of Collie.

1.3 Commencement

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

1.4 Repeal

The Shire of Collie Local Law No. 3—Cemeteries published in the *Government Gazette* on 18 April 2000 is repealed.

1.5 Interpretation

In this local law unless the context otherwise requires—

“**Act**” means the *Cemeteries Act 1986*;

“**ashes**” means so much of the remains of a dead body after the due processes of cremation as may be contained in a standard sized cremation urn;

“**authorised officer**” means an employee of the Board authorised by the Board for the purposes of performing any function or exercising any power conferred upon an authorised officer by this local law;

“**Board**” means the Council of the Shire of Collie;

“**CEO**” means the chief executive officer for the time being, of the Board;

“**funeral director**” means a person holding a current funeral director’s licence;

“**mausoleum**” means a building or construction wholly above or partially above and below ground level, so constructed as to allow the deposition of dead bodies into a compartment in the wall or floor and being sealed from view;

“**monumental mason**” means a person holding a current monumental mason’s licence;

“**personal representative**” means the administrator or executor of an estate of a deceased person;

“**set fee**” refers to fees and charges set by a resolution of the Board and published in the *Government Gazette*, under section 53 of the Act;

“**single funeral permit**” means a permit issued by the Board under section 20 or 21 of the Act which entitles the holder to conduct at the cemetery a funeral of a person named in the permit; and

“**vault**” means a below-ground lined grave with one or more sealed compartments constructed to specifications approved from time to time by the Board.

PART 2—ADMINISTRATION

2.1 Powers and functions of CEO

Subject to any directions given by the Board, the CEO shall exercise all the powers and functions of the Board in respect of a cemetery.

PART 3—APPLICATION FOR FUNERALS**3.1 Application for burial**

(1) A person may apply for approval to bury a dead body in the cemetery in the form determined by the Board from time to time.

(2) An application under subclause (1) is to be accompanied by the set fee.

3.2 Applications to be accompanied by certificates etc

All applications referred to in clause 3.1 shall be accompanied by either a medical certificate of death or a Coroner's order of burial, and a certificate issued under clause 3.3, in respect of the body.

3.3 Certificate of identification

(1) After a dead body is placed in a coffin and prior to a dead body being removed to the cemetery, a person who personally knew the deceased shall identify the dead body and shall complete a certificate of identification in the form determined by the Board from time to time, unless—

- (a) in the opinion of the funeral director, the dead body is not in a fit state to be viewed; or
- (b) after reasonable effort the funeral director is unable to arrange for a person to identify the dead body.

(2) Where—

- (a) in the opinion of the funeral director, the dead body is not in a fit state to be viewed; or
- (b) after reasonable effort the funeral director is unable to arrange for a person to identify the dead body,

then the funeral director shall complete a certificate in the form determined by the Board from time to time.

3.4 Minimum notice required

All bookings to hold a funeral shall be made with the Board at least 24 hours prior to the time proposed for burial on the application, otherwise an extra charge may be made.

PART 4—FUNERAL DIRECTORS**4.1 Funeral director's licence expiry**

A funeral director's licence shall expire on 30 June of each year.

4.2 Single funeral permits

Every application for a single funeral permit made under section 20 or 21 of the Act shall include coffin specifications and details of the vehicle transporting the dead body to the gravesite.

4.3 Application refusal

The Board may refuse an application for a single funeral permit if, in the opinion of the Board, either the coffin specifications or the details of the vehicle transporting the dead body to the gravesite, are not structurally sound or are otherwise inadequate or inappropriate, or on any other grounds.

PART 5—FUNERALS*Division 1—General***5.1 Requirements for funerals and coffins**

A person shall not bring a dead body into the cemetery unless—

- (a) the Board has approved an application for the burial of that dead body in accordance with Part 3 of this local law;
- (b) it is enclosed in a coffin which in the opinion of the Board is structurally sound and bears the name of the deceased person indelibly inscribed in legible characters on a plate on the coffin's lid; and
- (c) under the plate referred to in paragraph (b) there is a substantive lead strip bearing the surname of the deceased person stamped in legible characters, each character being not less than 10 mm in height.

5.2 Funeral processions

The time fixed by the Board for any burial shall be the time at which the funeral procession is to arrive at the cemetery gates, and, if not punctually observed, then the applicant who applied to hold the funeral under clause 3.1 or clause 3.2 shall pay the set fee for being late.

5.3 Vehicle entry restricted

(1) Subject to clause 5.3(2), every funeral procession shall enter by the principal entrance, and no vehicle except the hearse, and official mourning coaches, shall be permitted to enter the cemetery.

(2) This clause shall not apply to persons using wheelchairs or motorised wheelchairs.

5.4 Vehicle access and speed limitations

(1) A person shall drive, unless otherwise authorised by the CEO on the constructed roadway or vehicular access way or other areas designated for the use of vehicles.

(2) A person driving a vehicle, within a cemetery, shall not exceed the speed limit of 10 km/hr and comply with the directions of the signs.

5.5 Offenders may be ordered to leave

A person committing an offence under clause 5.4 may be ordered to leave the cemetery by the CEO or an authorised officer and if so ordered is required to leave forthwith.

5.6 Conduct of funeral by Board

When conducting a funeral under section 22 of the Act the Board may—

- (a) require a written request for it to conduct a funeral to be lodged with it;
- (b) in its absolute discretion, charge any person requesting it to conduct a funeral the set fee for the conduct of that funeral by it;
- (c) where no fee or a reduced fee has been charged by it for the conduct of the funeral, determine the manner in which the funeral shall be conducted;
- (d) bury that dead body;
- (e) specify an area in the cemetery where the dead body is to be buried or the ashes placed;
- (f) conduct the funeral notwithstanding the failure of a person to make any application or to obtain any consent required under this local law;
- (g) do or require anything which it considers is necessary or convenient for the conduct of a funeral by it.

*Division 2—Placement of Ashes***5.7 Disposal of ashes**

(1) The personal representative of a deceased person whose body has been cremated may apply, in an application under clause 3.1 or otherwise, for permission to dispose of the ashes in the cemetery and upon payment of the set fee the Board may grant permission for the ashes to be disposed of by one of the following methods—

- Niche Wall
- Memorial Wall
- Garden of Remembrance
- Ground Niche
- Memorial Rose, Tree or Shrub
- Family Shrub
- Memorial Desk
- Granite Seat
- Family Grave
- Book of Remembrance
- Scattering to the Winds
- Memorial Gardens
- Other memorials approved by the Board.

(2) Subject to subclauses (3) and (4), a person shall not place the ashes of a deceased person in the cemetery.

(3) An authorised officer may place the ashes of a deceased person in a cemetery in accordance with the Board's approval provided—

- (a) the person requesting the placement of the ashes has the permission of the Board; and
- (b) the ashes are placed within an area set aside for that purpose by the Board.

(4) An authorised officer may place the ashes of a deceased person within a grave in accordance with the Board's approval, provided the person requesting the placement of the ashes has the written permission of the Board and the approval of the holder of the grant of right of burial of the grave under the Act.

PART 6—BURIALS**6.1 Depth of graves**

(1) A person shall bury a coffin within the cemetery so that the distance from the top of the coffin to the original surface of the ground is not less than 750 mm.

(2) A person, with the permission of the CEO or authorised officer may bury a coffin so that the distance from the top of the coffin to the original surface of the ground is not less than 600 mm.

(3) The permission of the authorised officer in subclause (2) will only be granted where in the opinion of the authorised officer exceptional circumstances require granting of that permission.

6.2 Mausoleum, etc

(1) A person other than the Board shall not construct a brick grave, crypt, vault or mausoleum within the cemetery.

(2) A person may request the Board to construct a vault or mausoleum within the cemetery which vault or mausoleum shall at all times remain the property of the Board.

(3) An application under subclause (2) shall be in writing and shall be accompanied by payment of the set fee.

- (4) A person shall not place a dead body in a mausoleum except—
- (a) in a closed coffin; and
 - (b) in a soundly constructed chamber; and
 - (c) in accordance with subclause (5).
- (5) The number of burials in a chamber must not exceed the number for which the chamber was designed.

PART 7—MEMORIALS AND OTHER WORK

Division 1—General

7.1 Application for monumental work

The Board may require the written consent of the holder of the right of burial of a grave to accompany an application under section 30 of the Act.

7.2 Placement of monumental work

Every memorial shall be placed on proper and substantial foundations.

7.3 Removal of rubbish

All refuse, rubbish or surplus material remaining immediately after memorial works are completed under a permit issued under section 30 of the Act shall be immediately removed from the cemetery by the person carrying out the same.

7.4 Operation of work

All material required in the erection and completion of any work shall, as far as possible, be prepared before being taken to the cemetery, and all materials required by tradesmen shall be admitted at such entrance as the CEO or an authorised officer shall direct.

7.5 Removal of materials

No sand, earth or other material shall be taken from any part of the cemetery for use in the erection of any memorial or work except with the written approval of the Board.

7.6 Hours of work

Persons shall not be permitted to carry out memorial or other work on graves within the cemetery other than during the hours of 8.00 a.m. and 6.00 p.m. on weekdays, and 8.00 a.m. and noon on Saturdays, without the written permission of the Board.

7.7 Unfinished work

Should any work by masons or others be not completed before 6.00 p.m. on weekdays and noon on Saturdays, they shall be required to leave the work in a neat and safe condition to the satisfaction of the CEO or an authorised officer.

7.8 Use of wood

No wooden fence, railing, cross or other wooden erection shall be allowed on or around any grave, other than as a temporary marker and with the prior approval of the Board.

7.9 Plants and trees

No trees or shrubs shall be planted on any grave or within the cemetery except such as shall be approved by the CEO.

7.10 Supervision

All workers, whether employed by the Board or by any other person, shall at all times whilst within the boundaries of the cemetery be subject to the supervision of the CEO or an authorised officer and shall obey such directions as the CEO or an authorised officer may give.

7.11 Australian War Graves

Notwithstanding anything in this local law to the contrary, the Office of Australian War Graves—

- (a) may place a memorial on a military grave; and
- (b) is not required to pay the set fee for any memorial that is placed upon a military grave.

7.12 Placing of glass domes and vases

A person shall not place glass domes, vases or other grave ornaments—

- (a) outside the perimeter of a grave in the cemetery as defined in the plans kept and maintained under section 40(2) of the Act; or
- (b) on the lawn in an area set aside by the Board as a lawn or a memorial plaque section.

Division 2—Lawn Section

7.13 Specification of monuments

(1) All monuments in the lawn section of a cemetery shall—

- (a) be made of natural stone; and
- (b) be placed upon a base of natural stone; and

- (c) comply with the following specifications—
 - (i) the overall height of the monument above the original surface of the grave shall not exceed 1.05 m;
 - (ii) the height of the base of the monument above the original surface of the grave shall not be less than 150 mm nor more than 450 mm;
 - (iii) the width of the base of the monument shall not exceed 1.20 m;
 - (iv) the depth of the base of the monument shall not exceed 300 mm; and
 - (d) have foundations extending to the bottom of the grave unless concrete beam foundations are provided by the Board.
- (2) An admiralty bronze memorial plaque may be attached to a monument erected or being erected in the lawn section of the cemetery.
- (3) A person shall not display any trade names or marks upon any monument erected within the lawn section of the cemetery.

7.14 Headstones

In the lawn section of the cemetery, that part of a headstone above its base shall not extend horizontally beyond that base.

Division 3—Memorial Plaque Section

7.15 Requirements of a memorial plaque

- (1) All memorial plaques placed in a memorial plaque section of the cemetery shall—
 - (a) be made of admiralty bronze or any other material approved by the Board; and
 - (b) not be less than the dimensions 380 mm x 280 mm, nor more than 560 mm x 305 mm; and
- (2) All memorial plaques made of admiralty bronze shall—
 - (a) not exceed 20 mm in thickness; and
 - (b) be placed upon a base mounting approved by the Board.
- (3) All memorial plaques made of stone shall—
 - (a) not exceed 50 mm in thickness placed upon a base mounting approved by the Board; or
 - (b) not be less than 100 mm in thickness if it is not to be placed upon a base mounting.

Division 4—Licensing of Monumental Masons

7.16 Monumental mason's licence

- (1) The Board may upon receipt of an application in writing by any person and upon payment of the set fee issue to the applicant a monumental mason's licence.
- (2) A licence issued under subclause (1) authorises the holder to carry out monumental works within the cemetery subject to the provisions of this local law and such conditions as the Board shall specify upon the issue of that licence.

7.17 Expiry date, non-transferability

A monumental mason's licence—

- (a) shall, subject to clause 7.20, be valid from the date specified therein until 30 June next following; and
- (b) is not transferable.

7.18 Carrying out monumental work

A person shall not carry out monumental work within the cemetery unless that person—

- (a) is the holder of a current monumental mason's licence issued pursuant to clause 7.16 or does so as the employee of a person who holds such a licence; or
- (b) is authorised by the Board to do so.

7.19 Responsibilities of the holder of a monumental mason's licence

The holder of a monumental mason's licence shall be responsible for the compliance by every person purporting to be authorised to carry out monumental works within the cemetery pursuant to that licence with all the requirements and conditions of the licence, this local law, the Act and any other written law which may affect the carrying out of monumental works.

7.20 Cancellation of a monumental mason's licence

- (1) The Board may by notice in writing to the holder of a monumental mason's licence terminate the licence on any of the following grounds—
 - (a) that the holder of the licence has committed a breach of the requirements and conditions of the licence, this local law, the Act or any other written law which may affect the carrying out of monumental works;
 - (b) that, in the opinion of the Board, the conduct of the holder of the licence or any person in the employ of that holder in carrying out or attempting to carry out any works within the cemetery, is inappropriate or unbecoming; or
 - (c) that the holder of the licence has purported to transfer the licence issued to that holder.

(2) Upon the termination of a monumental mason's licence under this clause no part of any fee paid for the issue of that licence is refundable by the Board.

(3) An aggrieved person whose licence has been terminated under subclause (1) may apply to the State Administrative Tribunal for a review of the decision of the Board.

PART 8—GENERAL

8.1 Animals

Subject to clause 8.2, a person shall not bring an animal into or permit an animal to enter or remain in the cemetery, other than with the approval of the CEO or an authorised officer.

8.2 Guide dogs

Clause 8.1 shall not apply to a hearing impaired person or a person who is blind or partially blind and who is accompanied by a hearing or guide dog.

8.3 Damaging and removing of objects

Subject to clause 8.4, a person shall not damage, remove or pick any tree, plant, shrub or flower in the cemetery or any other object or thing on any grave or memorial or which is the property of the Board without the permission of the Board.

8.4 Withered flowers

A person may remove withered flowers from a grave or memorial and these are to be placed in a receptacle provided by the Board for that purpose.

8.5 Littering and vandalism

A person shall not—

- (a) break or cause to be broken any glass, ceramic or other material in or upon the cemetery;
- (b) discard, deposit, leave or cause to be discarded, deposited or left any refuse or litter in or upon the cemetery other than in a receptacle provided for that purpose.

8.6 Advertising

A person shall not carry on or advertise any trade, business or profession within the cemetery without the prior written approval of the Board which consent may be granted subject to such conditions as the Board thinks fit.

8.7 Obeying signs and directions

- (1) The Board may erect, set up, display or place signs with markings or symbols specified by Standards Australia for the purpose of this local law.
- (2) A person shall obey all signs erected, set up, displayed, placed or marked by the Board within the cemetery.
- (3) A person shall obey any lawful direction by the CEO or an authorised officer.

8.8 Removal from the cemetery

Any person failing to comply with any provisions of this local law or behaving in a manner that in the opinion of the Board, the CEO or an authorised officer is inappropriate in the cemetery may in addition to any penalty provided by this local law be ordered to leave the cemetery by the Board, the CEO or an authorised officer.

PART 9—OFFENCES AND MODIFIED PENALTIES

9.1 General

A person who commits a breach of any provisions of this local law commits an offence and shall on conviction be liable to a penalty not exceeding \$500.00 and if the offence is a continuing one to a further penalty not exceeding \$20.00 for every day or part of a day during which the offence has continued.

9.2 Modified penalties

- (1) The offences specified in Schedule 1 are offences which may be dealt with under section 63 of the Act.
 - (2) The modified penalty payable in respect of an offence specified in Schedule 1 is set out in the fourth column of Schedule 1.
 - (3) The prescribed form of the infringement notice referred to in section 63(1) of the Act is set out in Schedule 2.
 - (4) The prescribed form of the notice withdrawing an infringement notice referred to in section 63(3) of the Act is set out in Schedule 3.
-

Schedule 1
OFFENCES AND MODIFIED PENALTIES

[clause 9.2(1)]

Item No	Clause	Nature of Offence	Modified Penalty
1	5.4(2)	Exceeding speed limit	\$50.00
2	5.4(1)	Not driving on constructed vehicle areas	\$50.00
3	7.3	Not removing rubbish and surplus materials	\$50.00
4	7.5	Using materials from cemetery	\$50.00
5	7.7	Leaving uncompleted works in an untidy or unsafe condition	\$50.00
6	8.1	Animal within cemetery	\$50.00
7	8.3	Damaging and removing objects	\$50.00
8	8.5	Littering and vandalism	\$50.00
9	8.6	Unauthorised advertising or trading	\$50.00
10	8.7	Disobeying sign or lawful direction	\$50.00

Schedule 2

Form 1

INFRINGEMENT NOTICE

[clause 9.2(3)]

To _____
(Name and address)

It is alleged that at ____ - ____ hours on _____ day of _____ 20 ____ at _____, you committed the offence indicated below by an (x) in breach of clause _____ of the *Shire of Collie Cemeteries Local Law 2010*.

(Authorised Person)

Offence

Exceeding speed limit
Not driving on constructed vehicle areas
Not removing rubbish and surplus materials
Using materials from cemetery
Leaving uncompleted works in an untidy or unsafe condition
Animal within cemetery
Damaging and removing objects
Littering and vandalism
Unauthorised advertising or trading
Disobeying sign or lawful direction

\$ _____

You may dispose of this matter by payment of the penalty as shown within 21 days of the date of this notice (or the date of the giving of this notice if that is a different date) to the Chief Executive Officer of the Shire of Collie at 87 Throssell Street, Collie between the hours of 9.00 a.m. to 4.30 p.m. Monday to Friday.

Payments by mail should be addressed to—

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

If the penalty is not paid within the time specified, then a complaint of the alleged offence may be made and heard and determined by a court.

Schedule 3

Form 2

WITHDRAWAL OF INFRINGEMENT NOTICE

[clause 9.2(4)]

No. _____

Date ____ / ____ / ____

To ⁽¹⁾ _____
 Infringement Notice No _____ dated ____ / ____ / _20____ for the alleged
 offence of ⁽²⁾ _____
 Penalty ⁽³⁾ _____

\$ _____ is withdrawn.

* No further action will be taken.

* It is proposed to institute court proceedings for the alleged offence.

⁽¹⁾ Insert name and address of alleged offender.

⁽²⁾ Insert short particulars of offence alleged.

⁽³⁾ Insert amount of penalty prescribed.

* (Delete whichever does not apply)

 (Authorised Person)

Dated: 11 August 2010.

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

Cr WAYNE SANFORD, Shire President.
 JASON WHITEAKER, Chief Executive Officer.

**LOCAL GOVERNMENT ACT 1995
DOG ACT 1976**

SHIRE OF COLLIE

DOGS LOCAL LAW 2010

ARRANGEMENT

PART 1—PRELIMINARY

- 1.1 Citation
- 1.2 Application
- 1.3 Commencement
- 1.4 Repeal
- 1.5 Interpretation

PART 2—IMPOUNDING OF DOGS

- 2.1 Attendance of pound keeper at pound
- 2.2 Release of impounded dogs
- 2.3 No breaking into or destruction of pound
- 2.4 Charges and costs
- 2.5 Euthanasia of dogs

PART 3—FENCING REQUIREMENTS AND LIMITATIONS ON THE KEEPING OF DOGS

- 3.1 Dogs to be confined
- 3.2 Notice to provide enclosure
- 3.3 Limitation on the number of dogs

PART 4—APPROVED KENNEL ESTABLISHMENTS

- 4.1 Interpretation
- 4.2 Application for licence for approved kennel establishment
- 4.3 Notice of proposed use
- 4.4 When application can be determined
- 4.5 Determination of application
- 4.6 Where application cannot be approved
- 4.7 Conditions of approval
- 4.8 Compliance with conditions of approval
- 4.9 Fees
- 4.10 Form of licence
- 4.11 Period of licence
- 4.12 Variation or cancellation of a licence
- 4.13 Transfer
- 4.14 Notification
- 4.15 Inspection of kennel

PART 5—DOGS IN PUBLIC PLACES

- 5.1 Places where dogs are prohibited absolutely
- 5.2 Dog exercise areas

PART 6—MISCELLANEOUS

- 6.1 Offence to excrete

PART 7—ENFORCEMENT

- 7.1 Interpretation
- 7.2 Modified penalties
- 7.3 Issue of infringement notice
- 7.4 Failure to pay modified penalty
- 7.5 Payment of modified penalty
- 7.6 Withdrawal of infringement notice
- 7.7 Service

Schedule 1—Form 1—Application for a licence for an approved kennel establishment

Schedule 2—Conditions of licence

Schedule 3—Offences and modified penalties

Schedule 4—Areas in which dogs are prohibited

Schedule 5—Dog exercise areas

Schedule 6—Dog prohibited areas and dog exercise areas

**LOCAL GOVERNMENT ACT 1995
DOG ACT 1976**

SHIRE OF COLLIE

DOGS LOCAL LAW 2010

Under the powers conferred by the *Dog Act 1976*, the *Local Government Act 1995* and under all other powers, the Shire of Collie resolved on 27th July 2010 to adopt the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Collie Dog Local Law 2010*.

1.2 Application

This local law applies throughout the district of the Shire of Collie

1.3 Commencement

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

1.4 Repeal

The *Shire of Collie Local Law No. 2—Dogs* published in the *Government Gazette* on 7 May 1999 and the *Shire of Collie Local Law No. 2—Dogs Amendment 1/99* published in the *Government Gazette* on 3 September 1999 are repealed on the day this local law comes into operation.

1.5 Interpretation

(1) In this local law unless the context otherwise requires—

“**Act**” means the *Dog Act 1976*;

“**authorised person**” means a person authorised by the Shire 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 Shire;

“**dangerous dog**” has the same meaning as given to it in section 3.1 of the Act;

“**district**” means the district of the Shire of Collie declared under the *Local Government Act 1995*;

“**kennel**” means any structure or land used for the boarding or breeding of dogs;

“**local planning scheme**” means a local planning scheme made by the Shire under the *Planning and Development Act 2005* which applies throughout the whole or a part of the district.

“**pound**” means a pound established by the Shire from time to time pursuant to the Act and to Part XX (Part 20) of the *Local Government (Miscellaneous Provisions) Act 1960*;

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

“**Regulations**” means the *Dog Regulations 1976*;

“**seized**” shall mean a dog seized by an authorised person, but not having been placed in a pound;

“**Shire**” means the Shire of Collie; and

“**thoroughfare**” has the meaning given to it in section 1.4 of the *Local Government Act 1995*.

(2) Words and expressions used in this local law have the meanings respectively given to them in and for the purpose of the Act.

PART 2—IMPOUNDING OF DOGS

2.1 Attendance of pound keeper at pound

The pound keeper or authorised person is to be in attendance at the pound for the release of dogs at the times as determined by the Chief Executive Officer.

2.2 Release of impounded dogs

- (1) A claim for the release of a dog seized and impounded is to be made to the pound keeper or authorised person.
- (2) The pound keeper or authorised person is not to release a dog seized and impounded to any person unless that person has produced to the pound keeper or authorised 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,
 - (c) of proof of registration of the dog in accordance with the Act, and
 - (d) of payment of the charges and costs imposed by the Shire in accordance with clause 2.4.

2.3 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 ineffective—
 - (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, \$4,000; otherwise \$2,000.

2.4 Charges and costs

The following are to be imposed and determined by the Shire 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 other than those determined under clause 2.1;
- (c) the costs of the destruction and the disposal of a dog referred to in section 29(15) of the Act; and
- (d) the charges for the sustenance and maintenance of a dog in a pound—per day or part thereof.

2.5 Euthanasia of dogs

The Shire may engage the services of a Veterinary Surgeon registered pursuant to the *Veterinary Surgeons Act 1960* to implement the euthanasia of dogs required to be destroyed by the Shire pursuant to the Act or this local law.

PART 3—FENCING REQUIREMENTS AND LIMITATIONS ON THE KEEPING OF DOGS

3.1 Dogs to be confined

- (1) In this Part the term “**fence**” includes a wall.
- (2) The owner or occupier of premises within the district on which a dog is kept shall cause the portion of those premises on which the dog is kept to be fenced in a manner capable of confining the dog to that portion.
- (3) The fence used to confine a dog and every part of the fence shall be of a type, height and construction which, having regard to the breed, age, size and physical condition of the dog prevents the dog from passing over, under or through the fence.
- (4) If there is a gate in the fence the gate shall—
 - (a) be kept closed at all times except when the dog is not kept on the premises, but nothing in this subclause prevents a person from opening a gate in order to enter or leave the premises, and
 - (b) be fitted with—
 - (i) an efficient self-closing mechanism;
 - (ii) an efficient self-latching mechanism;
 - (iii) a mechanism which enables the gate to be permanently locked.
- (5) When an owner or occupier fails to comply with subclauses (2), (3) or (4), he or she commits an offence.

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

3.2 Notice to provide enclosure

- (1) The Shire may serve a written notice to the owner of any dog to provide a suitable enclosure on the property where the dog is normally kept if in the opinion of the Shire the dog is not adequately prevented from escaping from the property.
- (2) Any person receiving a lawful direction pursuant to clause 3.2(1) herein shall comply with the direction within 7 days of its service.

3.3 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 if the premises are situated within the district.

PART 4—APPROVED KENNEL ESTABLISHMENTS**4.1 Interpretation**

In this Part and in Schedule 2—

“**adjoining**” means land or premises which have a common boundary or portion of a boundary with a lot or is separated from that lot by a right-of-way, pedestrian access way, access leg of a battleaxe lot or the equivalent not more than 6 m in width;

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

“**licensee**” means the holder of the licence;

“**premises**”, in addition to the meaning given to it in section 3 of the Act, means the premises described in the application for a licence; and

“**transferee**” means a person who applies for the transfer of a licence to her or him under clause 4.13 of this local law.

4.2 Application for licence for approved kennel establishment

An application for a licence must be made in the form of that in Schedule 1, and must be lodged with the Shire together with—

- (a) a copy of a determination on application for planning approval granting approval for an animal establishment;
- (b) 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 Shire, sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare;
- (c) a written acknowledgement that the applicant has read and agrees to comply with any code of practice relating to the keeping of dogs nominated by the Shire; and
- (d) the fee for the application for a licence referred to in 4.9(1) of this local law.

4.3 Notice of proposed use

(1) Subject to clause 4.4(b) an applicant for a licence must give notice of the proposed use of the premises as an approved kennel establishment after the application for a licence has been lodged—

- (a) once in a newspaper circulating in the district; and
- (b) to the owner 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 the notice is given; and
- (b) the application and plans and specifications may be inspected at the offices of the Shire.

(3) Where—

- (a) the notices given under subclause (1) do not 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 Shire, would fail to serve the purpose of notifying persons of the proposed use of the premises,

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

4.4 When application can be determined

An application for a licence is not to be determined by the Shire 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 if the application for a licence is submitted more than 12 months after the date of a determination on application for planning approval granting approval for an animal establishment is issued ; and
- (c) the Shire has considered any written submissions received within the time specified in clause 4.3(2)(a) on the proposed use of the premises.

4.5 Determination of application

In determining an application for a licence, the Shire is to have 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.

4.6 Where application cannot be approved

The Shire cannot approve an application for a licence where—

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

4.7 Conditions of approval

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

4.8 Compliance with conditions of approval

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

Penalty: \$1,000 and a daily penalty of \$100.

4.9 Fees

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

4.10 Form of licence

The licence is to be in the form determined by the Shire and is to be issued to the licensee.

4.11 Period of licence

- (1) The period of effect of a licence is set out in section 27(5) of the Act.
- (2) A licence is to be renewed if the fee referred to in clause 4.9(2) is paid to the Shire prior to the expiry of the licence.
- (3) On the renewal of a licence the conditions of the licence at the time of its renewal continue to have effect.

4.12 Variation or cancellation of a licence

- (1) The local government may vary the conditions of a licence.
- (2) The local government may cancel a licence—
 - (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 licence 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 licence is cancelled the fee paid for that licence is not refundable for the term of the licence that has not yet expired.

4.13 Transfer

- (1) An application for the transfer of a valid licence from the licensee to another person must be—
 - (a) made in the form determined by the Shire;
 - (b) made by the transferee;
 - (c) made with the written consent of the licensee; and
 - (d) lodged with the Shire together with—
 - (i) written evidence that a person will reside at or within reasonably close proximity to the premises the subject of the licence; and
 - (ii) the fee for the application for the transfer of a licence referred to in clause 4.9(3).
- (2) The Shire is not to determine an application for the transfer of a valid licence until the transferee has compiled with subclause (1).
- (3) The Shire 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 licence.
- (4) Where the Shire approves an application for the transfer of a valid licence, then on the date of approval, unless otherwise specified in the notice issued under clause 4.14(b), the transferee becomes the licensee of the licence for the purposes of this local law.

4.14 Notification

The Shire is to give written notice to—

- (a) an applicant for a licence of the Shire's decision on the application;
- (b) a transferee of the Shire's decision on the application for the transfer of a valid licence;
- (c) a licensee when the licence is due for renewal and the manner in which it may be renewed;
- (d) a licensee when the licence is renewed;
- (e) a licensee of any variation made under clause 4.12(1);
- (f) a licensee of the cancellation of a licence under clause 4.12(2)(a); or
- (g) a licensee of the cancellation of a licence under paragraphs (b) or (c) of clause 4.12(2), which notice is to be given in accordance with section 27(6) of the Act.

4.15 Inspection of kennel

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

PART 5—DOGS IN PUBLIC PLACES

5.1 Places where dogs are prohibited absolutely

(1) A person liable for the control of a dog under section 31 of the Act shall, subject to subclause (3), prevent that dog entering or being in or upon any of the following places:—

- (a) public places where signage indicates dogs are not permitted;
- (b) a public building, unless permitted by a sign;
- (c) shop or business premises, other than a shop or business premises where dogs are sold or treated for illness or injury;
- (d) a public swimming pool;
- (e) a construction, building or demolition site, unless tethered or otherwise constrained within the site;
- (f) areas vested in the Shire with remnant native vegetation, unless those areas are dog exercise areas under clause 5.2 of this local law.
- (g) in all the areas prescribed in Schedule 4 and coloured red in the aerial map in Schedule 6.

(2) If a dog enters or is in a place specified in subclause (1), every person liable for control of the dog at the time commits an offence.

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

(3) Subclause (1) does not apply to guide dogs or hearing dogs assisting blind or partially blind persons or other persons with disabilities.

5.2 Dog exercise areas

For the purposes of sections 31 and 32 of the Act, the lands described in Schedule 5 and which are coloured blue in the aerial map in Schedule 6 are dog exercise areas except for that portion of the land described which—

- (a) is being used for an organised function or event attended by people, as permitted by the Shire, during the times of such use;
- (b) is land which has been set apart as a children's playground.

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 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 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 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 way 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 Shire the amount of the penalty, with or without a reply as to the circumstances giving rise to the offence, and the Shire may appropriate that amount in satisfaction of the penalty and issue a receipt.

7.6 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 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 Shire under the Act, or as ascertained from inquiries made by the Shire.

Schedule 1

Form 1

APPLICATION FOR A LICENCE FOR AN APPROVED KENNEL ESTABLISHMENT

[clause 4.2]

I / We (Full name)

Of (postal address)

(telephone number)..... (facsimile number)

(E-mail address).....

Apply for a licence 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 (insert address of residence)

on and from (insert date).....

Attached are—

- (a) a copy of a Determination on application for planning approval granting approval for an animal establishment;
- (b) 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;
- (c) if the person in item (b) is not the applicant, written evidence that the person is a person in charge of the dogs; and
- (d) copies of notices given if required under clause 4.4(b) of this local law.

I confirm that I have read and agree to comply with the Code of Practice known asin the keeping of dogs at the proposed kennel establishment.

Signature of applicant _____

Date _____

* delete where inapplicable.

Note: a licence if issued will have effect for a period of 12 months—section 27.5 of the *Dog Act 1976*.

OFFICE USE ONLY

Application fee paid on _____ (insert date)

Schedule 2

CONDITIONS OF LICENCE

[clause 4.7(1)]

CONDITIONS OF A LICENCE FOR AN APPROVED KENNEL ESTABLISHMENT

An application for a licence for an approved kennel establishment may be approved subject to the following conditions—

- (a) a determination on application for planning approval granting approval for an animal establishment having first been obtained under a local planning scheme;
- (b) compliance with all conditions of any approval referred to in subclause (a) above
- (c) all external surfaces of each kennel must be kept in good condition;
- (d) 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;
- (e) all refuse, faeces and food waste must be disposed of daily into the approved apparatus for the treatment of sewage;
- (f) noise, odours, fleas, flies and other vectors of disease must be effectively controlled;
- (g) suitable water must be available at the kennel via a properly supported standpipe and tap; and
- (h) the licensee or the person nominated in the application for a licence, must, in accordance with the application for the licence, continue to reside—
 - (i) at the premises; or
 - (ii) in the opinion of the Shire, sufficiently close to the premises so as to control the dogs, and to ensure their health and welfare.

Schedule 3

OFFENCES AND MODIFIED PENALTIES

[clause 7.2]

Offence Clause	Nature of offence	Modified Penalty \$	Dangerous Dog Modified Penalty \$
2.3(a)	Attempting to or causing the unauthorised release of a dog from a pound	400	400
2.3(b)	Interfering with any pound or vehicle used for the purpose of catching, holding or conveying dogs	400	
3.1	Failing to provide means for effectively confining a dog	100	200
3.3(2)	Keeping more than the prescribed number of dogs without relevant approval	100	
4.8	Failing to comply with the conditions of a licence	200	200
5.1(2)	Dog in place from which prohibited absolutely	100	200
6.1(2)	Dog excreting in prohibited place	100	

Schedule 4
AREAS IN WHICH DOGS ARE PROHIBITED

[clause 5.1]

1. Part of Reserve 34343—Mungalup Road and Collie Scenic Drive, Collie, being that part of the reserve west of Mungalup Road.
2. Reserve 32147—Mungalup Road and Collie Scenic Drive, Collie and which abuts Reserve 34343.
3. Reserve 22849—Mungalup Road and Collie Scenic Drive, Collie and which abuts Reserve 34343.
4. Reserve 7945—Mungalup Road and Wyvern Road, Collie and which abuts Wyvern Nature Reserve.
5. Reserve 15783—Venn Street and David Hay Street, Collie excluding a disturbed strip along the edge of the Collie River of varying widths as sign posted.
6. Reserve 27304—bordering Venn Street and Brunswick Street, Collie.

Schedule 5
DOG EXERCISE AREAS

[clause 5.2]

Public Recreation Reserves which are dog exercise areas in accordance with section 31(2)(a) of the Act.

1. Lions Park
Reserve 35105 (lot 2045 and Wellington Location 5244)—Patterson Road and Crampton Road, Collie.
 2. Wallsend Ground,
Part of Reserve 15195 being that part adjacent to the Collie River as sign posted.
 3. Roche Park
Part of Reserve 30555 being that part west of the prolongation of a line depicting the western boundary Blair Street and that part north east of the intersection of Wilson Street and Coombes Street, Collie as sign posted.
 4. Allanson Recreation Ground
Part of Reserve 16403—Montgomery Street and Coalfields Road, Allanson, being all of the reserve excluding the area developed as an oval for sporting purposes and the portion east of Crossing Road.
 5. Reserve 23956—Baird Street and Porter Street, Collie.
 6. Reserve 4909—Atkinson Street and Moore Street, Collie.
 7. Heritage Park
Reserve 23097—Mungalup Road and Rowley Street, Collie.
 8. Reserve 43678—Wellington Boulevard and Jacaranda Street, Collie.
 9. Reserve 37760—Hodgson Terrace, Rogers Avenue and Atkinson Street, Collie.
 10. Neath Park
Reserve 25614—Denton Road and Wylam Road, Collie.
 11. Barbara Smith Park
Reserve 18996—Laurie Street and Princep Road, Collie.
 12. Flynn Park
Reserve 28570—Simpson Street and Vernon Street, Collie.
 13. Part of Reserve 23606—Gibbs Road and Cameron Road, being that portion adjacent to the Collie River and as sign posted.
 14. Reserve 21082—David-Hay Street, Collie.
 15. Part of Reserve 15783—Venn Street and David Hay Street, Collie being that portion adjacent to the Collie River as sign posted.
 16. Reserve 18806—Venn Street and Burt Street, Collie.
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Schedule 6
DOG PROHIBITED AREAS AND DOG EXERCISE AREAS

[clauses 5.1 and 5.2]



Dated 11th August 2010.

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

Cr WAYNE SANFORD, Shire President.
JASON WHITEAKER, Chief Executive Officer.