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LOCAL GOVERNMENT ACT 1995  
DOG ACT 1976

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**TOWN OF COTTESLOE**

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**DOGS LOCAL LAW 2011**



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**SCHEDULE 1—OFFENCES AND MODIFIED PENALTIES**



**LOCAL GOVERNMENT ACT 1995  
DOG ACT 1976**

TOWN OF COTTESLOE

**DOGS LOCAL LAW 2011**

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 Cottesloe* resolved on 27 June 2011 to make the following local law.

**PART 1—PRELIMINARY**

**1.1 Citation**

This local law may be cited as the *Town of Cottesloe Dogs Local Law 2011*.

**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 Cottesloe Local Law No. 34 Relating to Dogs*, published in the *Government Gazette* on 15 January 2001 and as corrected and published in the *Government Gazette* on 18 June 2002, is repealed.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;

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

**district** means the district of the local government;

**local government** means the *Town of Cottesloe*;

**owner** in relation to a dog means—

- (a) the person by whom the dog is ordinarily kept; or
- (b) the person who is deemed by the Act 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 permitted to live; or
- (d) a person who has the dog in his possession or under his or her control, but does not include a registered veterinary surgeon, or a person acting on his or her behalf in the course of his or her professional practice, or 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;

**public place** means any place to which the public has access;

**Regulations** means the *Dog Regulations 1976*; and

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

**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.

### 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 two 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;
- (c) all premises, outdoor dining areas or vehicles classified as food premises or food vehicles under the *Food Act 2008*,
- (d) a public swimming pool,
- (e) a public beach or reserve not being a beach or reserve listed under clause 4.2; and
- (f) a “children’s playground” designated by sand/soft fall area or fence.

(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—

(a) the following public beaches—

- (i) Southern Dog Beach—the public beach south of the north side of the groyne at Beach Street and the easterly projection of that line to the access path to the beach, northerly along the western edge and easterly along the northern edge of that path to where it joins the car park, then southerly to the southern boundary of the district;
- (ii) Northern Dog Beach—the public beach situated to the north of the prolongation westerly of the southern boundary of Lot 67 of Cottesloe Suburban Lot 13 to the western boundary of the municipality and thence northerly to the northern boundary of the municipality;

(b) the following reserves—

- (i) Reserve A 1203 known as Grant Marine Park;
- (ii) Reserve 29939 known as Andrews Place;
- (iii) Reserve 24793 known as Jasper Green Reserve;
- (iv) Cottesloe Oval, Reserve A6271 (Cottesloe Suburban Lot 63);
- (v) Harvey Field, Part of Reserve A1664 (Cottesloe Suburban Lot 68);
- (vi) In Curtin Avenue—
  - (I) An area bounded between the railway reserve to the east, the eastern edge of the constructed part of Curtin Avenue to the west, Eric Street to the north and the north edge of the footpath from Forrest Street to the south;
  - (II) An area bounded between the railway reserve to the east, the eastern edge of the constructed part of Curtin Avenue to the west, the southern edge of Grant Street railway station and Eric Street to the south;
- (vii) In Railway Street—
  - (I) An area bounded between the railway reserve to the west, the western edge of the constructed part of Railway Street, the southern boundary of the car park at Congdon Street and the northern boundary of Eric Street to the south;
  - (II) An area bounded between the railway reserve to the west, the western edge of the constructed part of Railway Street, the southern boundary of Eric Street and the southern projection of Burt Street to the south;
- (viii) John Black Dune Reserve A3235 (part of Napier St Reserve) bounded by the north side of the northern footpath on Napier Street, the eastern edge of the constructed car park at Napier Street (known as car park No. 2), the southern boundary of Bryan Way and the western boundaries of the tennis courts.

(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) Every person who fails to keep a dog on a leash in all public places other than dog exercise areas commits an offence.

### 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:** \$250.

(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 the dog is not a dangerous dog.

(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 Chief Executive Officer, 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 Chief Executive Officer, 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***OFFENCES AND MODIFIED PENALTIES**

<b>Offence</b>	<b>Nature of Offence</b>	<b>Modified Penalty \$</b>	<b>Dangerous Dog Modified Penalty \$</b>
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	400
3.1	Failing to provide means for effectively confining a dog	100	200
4.1(2)	Dog in place from which prohibited absolutely	200	400
4.2(5)	Fail to keep a dog on a leash in a public place	200	400
5.1(2)	Dog excreting in prohibited place	250	250

Dated 14th July 2011.

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

KEVIN MORGAN, Mayor.  
CARL ASKEW, Chief Executive Officer.