



**TOWN OF COTTESLOE
DOGS LOCAL LAW 2023**

***DOG ACT 1976
LOCAL GOVERNMENT ACT 1995***

CONTENTS

PART 1 - PRELIMINARY

- 1.1 CITATION
- 1.2 COMMENCEMENT
- 1.3 APPLICATION
- 1.4 REPEAL
- 1.5 TERMS USED

PART 2 - IMPOUNDING OF DOGS

- 2.1 CHARGES AND COSTS
- 2.2 ATTENDANCE OF POUND KEEPER AT POUND
- 2.3 RELEASE OF IMPOUNDED DOG

PART 3 - KEEPING OF DOGS

- 3.1 DOGS TO BE CONFINED
- 3.2 LIMITATION ON THE NUMBER OF DOGS
- 3.3 APPLICATION TO KEEP ADDITIONAL DOG OR DOGS
- 3.4 DETERMINATION OF APPLICATION
- 3.5 CONDITIONS OF APPROVAL
- 3.6 REVOCATION OF LICENSE TO KEEP ADDITIONAL DOGS

PART 4 – DOGS IN PUBLIC PLACES

- 4.1 PLACES WHERE DOGS ARE PROHIBITED ABSOLUTELY
- 4.2 PLACES WHICH ARE DOG EXERCISE AREAS

PART 5 - MISCELLANEOUS

- 5.1 FEES AND CHARGES
- 5.2 OFFENCE TO EXCRETE

PART 6 - ENFORCEMENT

- 6.1 OFFENCES
- 6.2 GENERAL PENALTY
- 6.3 MODIFIED PENALTIES
- 6.4 ISSUE OF INFRINGEMENT NOTICE
- 6.5 FAILURE TO PAY MODIFIED PENALTY
- 6.6 PAYMENT OF MODIFIED PENALTY
- 6.7 WITHDRAWAL OF INFRINGEMENT NOTICE
- 6.8 SERVICE OF NOTICE

SCHEDULE 1 – PRESCRIBED OFFENCES

TOWN OF COTTESLOE

DOGS LOCAL LAW 2023

DOG ACT 1976

LOCAL GOVERNMENT ACT 1995

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 *[insert date]* 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 2023*.

1.2 Commencement

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

1.3 Application

This local law applies throughout the district.

1.4 Repeal

The Town of Cottesloe Dogs Local Law 2011, as amended, published in the Government Gazette on 26 July 2011 is repealed.

1.5 Terms Used

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 under section 9.10 of the *Local Government Act 1995* 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 a dangerous dog;

dog management facility means a person authorised by the local government to administer the facilities of a dog management facility and exercise all powers of an authorised person under section 29 of the **Act**;

district means the district of the local government;

local government means the Town of Cottesloe;

infringement notice means the notice referred to in clause 6.4; and

notice of withdrawal means the notice referred to in clause 6.7(1).

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 has the same meaning as in section 3(1) of the **Act**

premises has the same meaning as in section 3 of the **Act**

public place has the same meaning given to it by section 3(1) of the **Act**

Regulations means the *Dog Regulations 2013*;

Schedule means the schedule to this local law;

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

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.

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 authorised person is to be in attendance at the dog management facility for the release of dogs at the times and on the days of the week as are determined by the CEO.

2.3 Release of impounded dog

- (1) A claim for the release of a dog seized and impounded is to be made to the authorised person or in the absence of the authorised person, to the CEO.
- (2) The authorised person is not to release a dog seized and impounded to any person unless that person has produced, to the satisfaction of the 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.

PART 3 - 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 (unless the gate is temporarily opened in a manner that ensures that the dog remains confined) 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;
 - (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; and
 - (f) comply with the provisions of the Town of Cottesloe Fencing Local Law.
- (2) Where an occupier fails to comply with sub clause (1), he or she commits an offence.

Penalty: Where the dog is a dangerous dog, \$4,000; otherwise \$2,000.

For an offence relating to a dog other than a dangerous dog:-

- (i) A fine of \$5,000. The modified penalty is \$200;
- (ii) For each separate and further offence committed by the person under section 71 of the *Interpretation Act 1984*, a fine of \$100.

Notwithstanding clause 1, the confinement of dangerous dogs is dealt with in the **Act** and Regulations.

3.2 Limitation on the number of dogs

- (1) This clause does not apply to premises which have been:-
- (a) granted an exemption under section 26(3) of the **Act**; or
 - (b) established as a veterinary hospital or veterinary clinic.
- (2) The limit on the number of dogs which may be kept on any premises, for the purpose of section 26(4) of the **Act**, is two (2) dogs over the age of three (3) months and the young of those dogs under that age.

Penalty: For an offence relating to a dog other than a dangerous dog:-

- (i) A fine of \$5,000. The modified penalty is \$100;
- (ii) For each separate and further offence committed by the person under section 71 of the *Interpretation Act 1984*, a fine of \$100.

3.3 Application to keep additional dog or dogs

- (1) The local government may consider an application to keep an additional dog or dogs where -
- (a) the property is deemed suitable by an authorised person -
 - (i) having sufficient space capable of confining more dogs;

- (ii) noise, odours, fleas, flies and other vectors of disease will be effectively controlled; and
- (iii) the care and welfare of the dogs is considered adequate
- (b) the details of every dog proposed to be kept on the premises are provided including name, age, colour/description, breed, registration number and microchip details; and
- (c) sufficient reason has been provided, including -
 - (i) to replace an elderly or sick dog not expected to live;
 - (ii) a family emergency resulting in the dog being inherited;
 - (iii) merging of two households;
 - (iv) where the applicants have had approval to keep an additional dog or dogs in another local authority.

3.4 Determination of application

In determining an application for a licence, the local government is to have regard to -

- (a) The matters referred to in clause 3.3;
- (b) The effect which approval of the proposed application may have on the environment or the amenity of the neighbourhood;
- (c) Whether approval of the application will create a nuisance for the owners and occupiers of adjoining premises.

3.5 Conditions of approval

- (1) the local government may approve an application to keep an additional dog or dogs subject to any conditions as considered appropriate.
- (2) Approval of an application is not transferrable to successive owners or occupiers of the premises
- (3) A person who fails to comply with a condition imposed under subclause 1 commits an offence.

Penalty: For an offence relating to a dog other than a dangerous dog:-

- (i) A fine of \$5,000. The modified penalty is \$200;
- (ii) For each separate and further offence committed by the person under section 71 of the *Interpretation Act 1984*, a fine of \$100.

3.6 Revocation of license to keep additional dogs

Where a person does not comply with the conditions of approval to keep an additional dog or dogs under clause 3.5 the local government may revoke the approval to keep an additional dog or dogs.

PART 4 – DOGS IN PUBLIC PLACES

4.1 Places where dogs are prohibited absolutely

- (1) Designation of places where dogs are prohibited absolutely is dealt with in the **Act**.
- (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.

- (3) Subclause (2) does not apply to a dog who is being used as an assistance animal as defined in the *Disability Discrimination Act 1992 (Commonwealth)*.

Penalty:

- (i) for an offence relating to a dangerous dog, a fine of \$10,000, and a modified penalty of \$500;
- (ii) for an offence relating to a dog other than a dangerous dog, a fine of \$5,000. The modified penalty is \$200.

4.2 Places which are dog exercise areas

Designation of places which are dog exercise areas is dealt with in the **Act**.

PART 5 - MISCELLANEOUS

5.1 Fees and Charges

Set fees and charges are to be imposed and determined by the local government under section 6.16 to 6.19 of the *Local Government Act 1995*.

5.2 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: \$5,000. The modified penalty is \$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 Offences

A person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.

6.2 General penalty

A person who commits an offence under this local law is liable, on conviction, to a penalty not exceeding \$5,000 and if the offence is of a continuing nature, to an additional penalty not exceeding \$100 for each day or part of the day during which the offence has continued.

6.3 Modified penalties

- (1) The offences contained in Schedule 3 are offences in relation to which a modified penalty may be imposed.
- (2) The amount appearing in the third column of Schedule 3 directly opposite an offence is the modified penalty payable in respect of that offence if -
- (a) the dog is not a dangerous dog; or

- (b) the dog is a dangerous dog, but an amount does not appear in the fourth column directly opposite that offence.
- (3) The amount appearing in the fourth column of Schedule 3 directly opposite an offence is the modified penalty payable in respect of that offence if the dog is a dangerous dog.

6.4 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 2 of Schedule of the *Local Government (Functions and General) Regulations 1996*.

6.5 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 further time as may in any particular case be allowed by an Authorised Person, he or she is deemed to have declined to have the offence dealt with by way of a modified penalty.

6.6 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 an Authorised Person, 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.

6.7 Withdrawal of infringement notice

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 3 of Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.

A person authorised to issue an infringement notice under clause 6.4 cannot sign or send a notice of withdrawal.

6.8 Service of Notice

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 – PRESCRIBED OFFENCES

(clause 6.2)

OFFENCE	NATURE OF OFFENCE	MODIFIED PENALTY \$	DANGEROUS DOG MODIFIED PENALTY \$
3.1	Failing to provide means for effectively confining a dog	200	As per Regulations
3.2	Limitation on the number of dogs	100	As per the Act
3.5	Failure to comply with conditions of approval to keep additional dog or dogs	200	As per the Act
5.1(2)	Dog excreting in prohibited place	250	250

Dated: _____

was affixed by authority of a }
 resolution of the Council in the }
 presence of: }

MAYOR

CHIEF EXECUTIVE OFFICER