

DOG ACT 1976
LOCAL GOVERNMENT ACT 1995
Shire of Waroona
DOG LOCAL LAW

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 Shire of Waroona resolved on 27 June 2023 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Waroona Dog 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The *Shire of Waroona Dogs Local Law* published in the *Government Gazette* on 27 August 2001 (page 4767) is repealed.

1.5 Interpretation

In this local law unless the context otherwise requires—

Act means the *Dog Act 1976*;

animal management facility means a facility for the purposes of caring and maintaining dogs seized and impounded under the Act;

authorised person means a Ranger or other person appointed by the CEO 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;

district means the district of the local government;

local government means the *Shire of Waroona*;

local planning scheme means a local planning scheme made by the local government under the *Planning and Development Act 2005* which applies throughout the whole or a part of the district;

pound keeper means a Ranger or other person authorised by the CEO to perform all or any of the functions conferred on a "pound keeper" under this local law;

Regulations means the *Dog Regulations 2013*;

Schedule means a schedule in this local law; and

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

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 animal management facility for the release of dogs at the times and on the days of the week, as are determined by the CEO from time to time.

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 CEO.
- (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.

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 (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; 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 is a non-dangerous dog, \$2,000.
- (3) Notwithstanding subclause (1) and (2), 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) 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 in the district is, for the purpose of section 26(4) of the Act—
 - (a) 2 dogs over the age of 3 months if the premises are situated within a townsite, or any other land of 15,000 m² or less in size; or
 - (b) 4 dogs over the age of 3 months, if the premises is outside of a townsite on land 15,001 m² or more in size.

PART 4—APPROVED KENNEL ESTABLISHMENTS

4.1 Interpretation

In this Part and in Schedule 2—

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

licensee means the holder of a 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 4.14.

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 local government together with—

- (a) plans and specifications of the kennel establishment, including a site plan;
- (b) copies of the notices to be given under clause 4.3;
- (c) 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 local government, sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare;
- (d) 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 local government; and
- (e) the fee for the application for a licence referred to in clause 4.10(1).

4.3 Notice of proposed use

- (1) 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 owners 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 local government.
- (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 local government, would fail to serve the purpose of notifying persons of the proposed use of the premises,

then the local government 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 Exemption from notice requirements

Where an application for a licence is made in respect of premises on which an approved kennel establishment is either a—

- (a) permitted use; or
- (b) use which the local government may approve subject to compliance with specified notice requirements,

under a town planning scheme, then the requirements of clauses 4.2(b), 4.3 and 4.5(a) do not apply in respect of the application for a licence.

4.5 When application can be determined

An application for a licence is not to be determined by the local government 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; and
- (c) the local government has considered any written submissions received within the time specified in clause 4.3(2)(a) on the proposed use of the premises.

4.6 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 4.7;
- (b) any written submissions received within the time specified in clause 4.3(2)(a) on the proposed use of the premises;
- (c) any economic or social benefits which may be derived by any person in the district if the application for a licence is approved;
- (d) the effect which the kennel establishment may have on the environment or amenity of the neighbourhood;
- (e) whether the approved kennel establishment will create a nuisance for the owners and occupiers of adjoining premises; and
- (f) whether or not the imposition of and compliance with appropriate conditions of a licence will mitigate any adverse effects of the approved kennel establishment identified in the preceding paragraphs.

4.7 Where application cannot be approved

The local government cannot approve an application for a licence where—

- (a) an approved kennel establishment cannot be permitted by the local government on the premises under a town 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 local government, sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare.

4.8 Conditions of approval

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

4.9 Compliance with conditions of approval

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

Penalty: \$5,000, a daily penalty of \$100 and a modified penalty of \$200.

4.10 Fees

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

4.11 Form of licence

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

4.12 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 4.10(2) is paid to the local government 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.

4.13 Variation or cancellation of 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.

4.14 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 local government;
 - (b) made by the transferee;
 - (c) made with the written consent of the licensee; and
 - (d) lodged with the local government 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 4.10(3).
- (2) The local government is not to determine an application for the transfer of a valid licence until the transferee has complied with subclause (1).
- (3) The local government 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 local government 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 4.15(b), the transferee becomes the licensee of the licence for the purposes of this local law.

4.15 Notification

The local government is to give written notice to—

- (a) an applicant for a licence of the local government's decision on her or his application;
- (b) a transferee of the local government's decision on her or his application for the transfer of a valid licence;
- (c) a licensee of any variation made under clause 4.13(1);
- (d) a licensee when her or his licence is due for renewal and the manner in which it may be renewed;
- (e) a licensee when her or his licence is renewed;
- (f) a licensee of the cancellation of a licence under clause 4.13(2)(a); and
- (g) a licensee of the cancellation of a licence under paragraphs (b) or (c) of clause 4.13(2), which notice is to be given in accordance with section 27(6) of the Act.

4.16 Inspection of kennel

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

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: \$1000

- (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 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.

6.3 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 8 of the First Schedule of the Regulations.

6.4 Failure to pay modified penalty

Where a person who has received an infringement notice fails to pay the modified penalty within the time specified in the notice, or within such further time as may in any particular case be allowed by the CEO, he or she is deemed to have declined to have the offence dealt with by way of a modified penalty.

6.5 Payment of modified penalty

A person who has received an infringement notice may, within the time specified in that notice or within such further time as may in any particular case be allowed by the CEO, send or deliver to the local government the amount of the penalty, with or without a reply as to the circumstances giving rise to the offence, and the local government may appropriate that amount in satisfaction of the penalty and issue an acknowledgment.

6.6 Withdrawal of infringement notice

- (1) Whether or not the modified penalty has been paid, an authorised person may withdraw an infringement notice by sending a notice in the form of Form 9 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—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) two copies of site plan of the premises showing the location of the kennels and yards and all other buildings and structures and fences;

- (b) plans and specifications of the kennel establishment;
- (c) copy of notice of proposed use to appear in newspaper;
- (d) copy of notice of proposed use to be given to adjoining premises;
- (e) 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; and
- (f) if the person in item (e) is not the applicant, written evidence that the person is a person in charge of the dogs.

I confirm that I have read and agree to comply with the Code of Practice known as, in 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.

OFFICE USE ONLY

Application fee paid on *[insert date]*.

Schedule 2—Conditions of a licence for an approved kennel establishment

(clause 4.8(1))

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

- (a) each kennel, unless it is fully enclosed, must have a yard attached to it;
- (b) each kennel and each yard must be at a distance of not less than—
 - (i) 25m from the front boundary of the premises and 10m from any other boundary of the premises;
 - (ii) 10m from any dwelling; and
 - (iii) 25m from any church, school room, hall, factory, dairy or premises where food is manufactured, prepared, packed or stored for human consumption;
- (c) each yard for a kennel must be kept securely fenced with a fence constructed of link mesh or netting or other materials approved by the local government;
- (d) the minimum floor area for each kennel must be calculated at 2.5 times the length of the breed of dog (when it is fully grown), squared, times the number of dogs to be housed in the kennel and the length of the dog is to be determined by measuring from the base of the tail to the front of its shoulder;
- (e) the floor area of the yard attached to any kennel or group of kennels must be at least twice the floor area of the kennel or group of kennels to which it is attached;
- (f) the upper surface of the kennel floor must be—
 - (i) at least 100mm above the surface of the surrounding ground;
 - (ii) smooth so as to facilitate cleaning;
 - (iii) rigid;
 - (iv) durable;
 - (v) slip resistant;
 - (vi) resistant to corrosion;
 - (vii) non-toxic;
 - (viii) impervious;
 - (ix) free from cracks, crevices and other defects; and
 - (x) finished to a surface having a fall of not less than 1 in 100 to a spoon drain which in turn must lead to a suitably sized diameter sewerage pipe which must be properly laid, ventilated and trapped in accordance with the health requirements of the local government;
- (g) all kennel floor washings must pass through the drain in item (f)(x) and must be piped to approved apparatus for the treatment of sewage in accordance with the health requirements of the local government;

- (h) the kennel floor must have a durable upstand rising 75mm above the floor level from the junction of the floor and external and internal walls, or internal walls must be so constructed as to have a minimum clearance of 50mm from the underside of the bottom plate to the floor;
- (i) where a yard is to be floored, the floor must be constructed in the same manner as the floor of any kennel;
- (j) from the floor, the lowest internal height of a kennel must be, whichever is the lesser of—
 - (i) 2m; or
 - (ii) 4 times the height of the breed of dog in the kennel, when it is fully grown, measured from the floor to the uppermost tip of its shoulders while in a stationary upright position;
- (k) the walls of each kennel must be constructed of concrete, brick, stone or framing sheeted internally and externally with good quality new zincalume or new pre-finished colour coated steel sheeting or new fibrous cement sheeting or other durable material approved by the local government;
- (l) all external surfaces of each kennel must be kept in good condition;
- (m) the roof of each kennel must be constructed of impervious material;
- (n) 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;
- (o) all refuse, faeces and food waste must be disposed of daily into the approved apparatus for the treatment of sewage;
- (p) noise, odours, fleas, flies and other vectors of disease must be effectively controlled;
- (q) suitable water must be available at the kennel via a properly supported standpipe and tap; and
- (r) 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 local government, sufficiently close to the premises so as to control the dogs, and to ensure their health and welfare.

Schedule 3—Offences in respect of which modified penalty applies

(clause 6.2)

Offence	Nature of offence	Modified penalty \$
3.1	Failing to provide means for effectively confining a dog	200
4.9	Failing to comply with the conditions of a licence	200
5.1(2)	Dog excreting in prohibited place	100

Dated the 27th day of June 2023.

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

Cr JOHN MICHAEL SCOTT WALMSLEY, Shire President.
MARK ANDREW GOODLET, Chief Executive Officer.

DOG ACT 1976
CAT ACT 2011
LOCAL GOVERNMENT ACT 1995
Town of Claremont
ANIMAL LOCAL LAW 2023

Under the powers conferred by the *Dog Act 1976*, the *Cat Act 2011*, the *Local Government Act 1995* and under all other powers enabling it, the Council of the Town of Claremont resolved on 27 June 2023 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *Town of Claremont Animal 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 Purpose and effect

- (1) The purpose of this local law is to provide for the regulation, control and management of the keeping of dogs and cats within the district.
- (2) The effect of this local law is that persons who own or keep dogs and cats within the district are required to comply with the provisions of this local law.

1.4 Repeal

- (1) The *Town of Claremont Dogs Local Law 2012* published in the *Government Gazette* on 24 May 2013 is repealed.
- (2) Clause 65 of the *Town of Claremont Health Local Laws 1997* published in the *Government Gazette* on 31 March 1998 and amended in the *Government Gazette* on 5 April 2013 is repealed.

1.5 Application

This local law applies throughout the district.

1.6 Terms used

In this local law unless the context otherwise requires—

Act means the *Local Government Act 1995*;
CEO means the Chief Executive Officer of the local government;
district means the district of the local government;
land has the meaning given to it in section 7 of the *Property Law Act 1969*;
local government means the Town of Claremont;
occupier has the meaning given to it in section 1.4 of the Act;
Schedule means a schedule in this local law;
Town means the Town of Claremont;

PART 2—DOGS

2.1 Terms used

In this part—

authorised person has the meaning given to it in section 3(1) of the Dog Act;
dangerous dog has the meaning given to it in section 3(1) of the Dog Act;
Dog Act means the *Dog Act 1976*;
Dog Regulations means the *Dog Regulations 2013*;
owner in relation to a dog has the meaning given to it in section 3(1) of the Dog Act;
person liable for the control of the dog has the meaning given to it in section 3(1) of the Dog Act;
pound means a dog management facility as defined in section 3(1) of the Dog Act;
premises has the meaning given in section 3(1) of the Dog Act;
public place has the meaning given in section 3(1) of the Dog Act;
thoroughfare has the meaning given to it in section 1.4 of the Act;

Division 1—Impounding of Dogs

2.2 Impounding of Dogs

- (1) An authorised person shall be in attendance at the pound to facilitate the return of a dog that has been seized pursuant to section 29 of the Dog Act, as determined by the CEO.
- (2) Where a dog that has been seized is to be returned to an owner, the owner must provide to an authorised person—
 - (a) proof of ownership of the dog;

- (b) proof of registration of the dog in accordance with the Dog Act;
- (c) payment of any moneys due to the local government in relation to the dog;
- (d) if another person other than the owner is to take delivery of the dog on the owner's behalf, a written authority authorising that person to do so.

Division 2—Keeping of Dogs

2.3 Dogs to be confined

- (1) An owner or 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; 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 owner or occupier fails to comply with subclause (1), he or she commits an offence.
- (3) Notwithstanding subclause (1) and (2), the confinement of dangerous dogs is dealt with in the Dog Act and Dog Regulations.

2.4 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 Dog 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 Dog Act, 2 dogs over the age of 3 months and the young of those dogs under that age.

2.5 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.
 - (c) Subject to subclause (2), if a dog excretes contrary to subclause (1), every person liable for the control of the dog at that time commits an offence.
- (2) 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 3—CATS

3.1 Terms Used

In this part—

authorised person has the meaning given to it in section 3(1) of the Cat Act;

Cat Act means the *Cat Act 2011*;

Cat Regulations means the *Cat Regulations 2012*;

cat has the meaning given to it in section 3(1) of the Cat Act;

cat management facility has the meaning given to it in section 3(1) of the Cat Act;

cat prohibited area means an area as outlined in Schedule 2;

nuisance in relation to a cat means—

- (a) an activity or condition which is harmful or annoying and which gives rise to legal liability in the tort of public or private nuisance at law; or
- (b) an unreasonable interference with the use and enjoyment of a person of their ownership or occupation of land; or
- (c) interference which causes material damage to land or other property on the land affected by the interference.

owner in relation to a cat has the meaning given to it in section 4 of the Cat Act;

premises has the meaning given to it in section 3(1) of the Cat Act;

regulations means the *Cat Regulations 2012*;

standard number of cats has the meaning given to it in the *Cat (Uniform Local Provisions) Regulations 2013*.

Division 1—Control of Cats

3.2 Cat not to be a nuisance

- (1) An owner shall not allow a cat to be or create a nuisance.

- (2) Where in the opinion of an authorised person, a cat is creating a nuisance, the local government may give written notice to the owner of the cat requiring that person to abate the nuisance.
- (3) When a nuisance has occurred and a notice to abate the nuisance is given, the notice remains in force for the period specified by the local government in the notice which shall not exceed 28 days.
- (4) A person given a notice to abate the nuisance shall comply with the notice within the period specified in the notice.
- (5) A cat control notice under subclause 3.2(2) shall be in the form of Schedule 1, Form 3 of the Regulations.

3.3 Cat prohibited areas

- (1) A cat shall not be in any cat prohibited area as listed in Schedule 2.
- (2) If a cat is in a cat prohibited area contrary to subclause 3.3(1)—
 - (a) the owner of the cat commits an offence; and
 - (b) an authorised person may seize and impound the cat in accordance with the Cat Act.

Division 2—Number of Cats that may be Kept

3.4 Interpretation

For the purposes of applying this Division, a cat does not include a cat less than 6 months old.

3.5 Cats for which a permit is required

- (1) Subject to subclause (2) a person is required to have a permit to keep—
 - (a) more than three (3) cats on any single dwelling or grouped dwelling premises to a maximum of five (5); or
 - (b) more than two (2) cats on any multiple dwelling premises to a maximum of five (5).
- (2) A permit is not required under subclause (1) if the premises concerned are—
 - (a) a cat management facility; or
 - (b) a veterinary premises as defined under section 3 of the *Veterinary Practice Act 2021*; or
 - (c) a pet shop.
- (3) A person who keeps more than the standard number of cats on a prescribed premises without approval commits an offence.

3.6 Application for additional cats

An application for a permit to keep additional cats at a prescribed premises shall be—

- (a) made in writing by an occupier of the prescribed premises;
- (b) in the manner and form approved by the CEO of the local government, describing and specifying the number of cats to be kept on the premises; and
- (c) accompanied by the consent in writing of the owner of the premises where the occupier is not the owner of the premises to which the application relates.

3.7 Refusal to determine application

The local government may refuse to determine an application for a permit if it is not made in accordance with clause 3.6.

3.8 Factors relevant to determining application

- (1) In determining an application for a permit the local government may have regard to—
 - (a) the reasons and justification provided for the request;
 - (b) the physical suitability of the premises;
 - (c) the environmental sensitivity and general nature of the location surrounding the premises;
 - (d) the likelihood of a cat causing a nuisance, inconvenience or annoyance to the occupiers of adjoining premises;
 - (e) any submissions received under subclause (2) within the time specified in subclause (2); and
 - (f) such other factors which the local government may consider to be relevant in the circumstances of the particular case.
- (2) The local government may require the applicant to—
 - (a) consult with nearby residents; or
 - (b) advise nearby residents that they may make submissions to the local government on the application for a permit within 14 days of receiving that advice before determining the application for a permit.
- (3) The local government may specify the extent of consultation with nearby residents and may specify which properties should be consulted.

3.9 Decision on application

- (1) Upon receiving an application the local government may—
 - (a) approve the application subject to the conditions in clause 3.10 and any other conditions the local government considers appropriate;

- (b) approve the application but specify an alternative number of cats permitted to be housed at the premises; or
 - (c) refuse to approve the application for a permit.
- (2) If the local government approves an application under subclause (1) then it shall issue a permit to the applicant in the form determined by the CEO.
- (3) If the local government refuses to approve an application under subclause (1) then it shall advise the applicant accordingly in writing.

3.10 Conditions

- (1) Every permit shall be issued subject to the following conditions—
- (i) each cat kept on the premises to which the permit relates shall comply with the requirements of the Act, the Cat Act and any subsidiary legislation made under those acts;
 - (ii) without the consent of the local government, the permit holder will not substitute or replace any cat that is the subject of a permit once that cat—
 - i. dies; or
 - ii. is permanently removed from the premises.
- (2) In addition to the conditions listed in subclause (1), the local government may issue a permit subject to such other conditions as it considers appropriate.

3.11 Compliance with conditions of permit

A permit holder shall comply with each condition of a permit.

3.12 Duration of permit

Unless otherwise specified in a condition on a permit, a permit commences on the date of issue and expires if—

- (a) it is revoked; or
- (b) the cat dies; or
- (c) the permit holder ceases to reside at the premises to which the permit relates.

3.13 Revocation

The local government may revoke a permit if the permit holder fails to observe any provision of this local law or a condition of the permit.

3.14 Permit not transferable

A permit is not transferrable either in relation to the permit holder or the premises.

3.15 Permit to be kept at premises and available for view

A permit issued by the local government shall be kept at the premises to which it applies and shall be provided to an authorised person on demand.

PART 4—MISCELLANEOUS

4.1 Giving of a Notice

A notice served under this local law may be given to a person—

- (a) personally;
- (b) by postal mail addressed to the person; or
- (c) by leaving it for the person at his or her address.

4.2 Objection and Appeal Rights

Any person who is aggrieved by—

- (a) the conditions imposed in relation to a permit;
- (b) the revocation of a permit; or
- (c) the refusal of the local government to grant a permit,

may object or appeal against the decision under Division 1 of Part 9 of the Act.

PART 5—ENFORCEMENT

5.1 Offences and Penalties

- (1) Any 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.
- (2) Any person who commits an offence under Part 2 of this local law may be liable, upon conviction, to a penalty not exceeding—
 - (a) \$2,000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$100 for each day or part of a day during which the offence has continued; or
 - (b) \$4,000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$200 for each day or part of a day during which the offence has continued in relation to a dangerous dog.
- (3) Any person who commits an offence under Part 3 of this local law may be liable, upon conviction, to a penalty not exceeding \$5,000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.

5.2 Modified Penalties

- (1) An offence against—
 - (a) Part 2 of this local law is a prescribed offence for the purposes of section 9.16(1) of the Act;
 - (b) Part 3 of this local law is a prescribed offence for the purposes of section 62(1) of the Cat Act.
- (2) The offences contained in Schedule 1 are offences in relation to which a modified penalty may be imposed.
- (3) The amount of the modified penalty for a prescribed offence—
 - (a) in relation to Part 2, is the amount specified in—
 - (i) the third column of Schedule 1 if the dog is not a dangerous dog;
 - (ii) the fourth column of Schedule 1 if the dog is a dangerous dog; and
 - (b) in relation to Part 3, is the amount specified in the final column of Schedule 1.

5.3 Form of Notices

The issue of infringement notices, their withdrawal, the payment of modified penalties and the appropriate forms are dealt with—

- (a) for the purposes of Part 2, in Division 2 of Part 9 of the Act;
- (b) for the purposes of Part 3, in Division 4 of Part 4 of the Cat Act.

SCHEDULE 1 PRESCRIBED OFFENCES AND MODIFIED PENALTIES

[Cl. 5.2(2)]

Part 2—Dogs

Clause	Nature of Offence	Modified Penalty \$	Modified Penalty (Dangerous Dog) \$
2.3	Failing to provide means for effectively confining a dog	200	400
2.5	Dog excreting in a prohibited place	200	200

Part 3—Cats

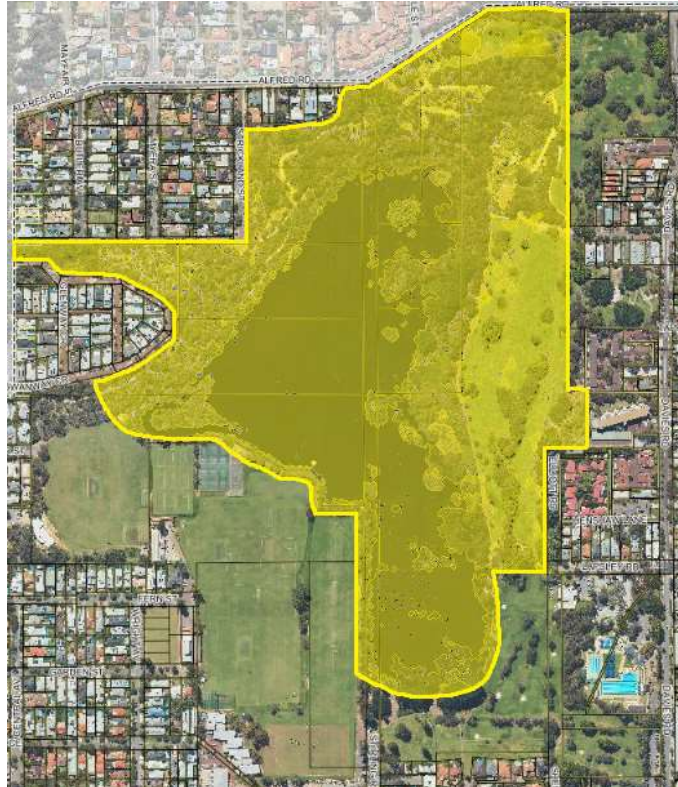
Clause	Nature of Offence	Modified Penalty \$
3.2(1)	Cat causing a nuisance	200
3.2(4)	Failure to comply with a cat control notice	200
3.3(1)	Cat in a prohibited area	200
3.5(1)	Keeping more than the standard number of cats without a permit	200
3.11	Failure to comply with a condition of a permit	200

SCHEDULE 2 CAT PROHIBITED AREAS

[Cl. 3.3]

Name	Location	Bound by
Lake Claremont	As shown on Map 1	Davies Road, Alfred Road, Elliot Road, Strickland Street, Eastway Crescent

Map 1



Dated 19 July 2023.

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

JOHN BARKER, Mayor.
LIZ LEDGER, Chief Executive Officer.

DOG ACT 1976
LOCAL GOVERNMENT ACT 1995
Town Of Cottesloe

DOGS LOCAL LAW 2023

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 2023 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 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;

district means the district of the local government;

dog management facility has the meaning given to it in section 3(1) of the Act;

infringement notice means the notice referred to in clause 6.3;

local government means the *Town of Cottesloe*;

notice of withdrawal means the notice referred to in clause 6.6(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;

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 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 authorised person at dog management facility

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 of 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; 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 sub clause (1), he or she commits an offence.

Penalty:

For an offence relating to a dog other than a dangerous dog—

- (i) A fine of \$5,000
- (ii) For each separate and further offence committed by the person under the *Interpretation Act 1984* Section 71, 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 is, for the purpose of section 26(4) of the Act is two (2) dogs over the age of 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
- (ii) For each separate and further offence committed by the person under the *Interpretation Act 1984* Section 71, a fine of \$100.

The confinement of dangerous dogs is dealt with in the Act and Regulations.

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 affectively 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.
 - (d) In the case of tenanted property, provide written consent by either the landowner or their appointed property owner.

3.4 Determination of application

In determining an application for a license, the local government is to have regard to—

- (a) the matters referred to in clause 3.33;
- (b) the effect which approval of the proposed may have on the environment or the amenity of the neighbourhood;
- (c) whether approval of 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
- (ii) For each separate and further offence committed by the person under the *Interpretation Act 1984* Section 71, a fine of \$100.

The confinement of dangerous dogs is dealt with in the Act and Regulations.

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 which is being used as an assistance animal as defined in the *Disability Discrimination Act 1992 (Commonwealth)*.

Penalty:

For an offence relating to a dog other than a dangerous dog—

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

The penalties relating to dangerous dogs are dealt with in the Act and Regulations.

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 Act.

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: \$1,000

- (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 1 are offences in relation to which a modified penalty may be imposed.

- (2) The amount appearing in the third column of Schedule 1 directly opposite an offence is the modified penalty payable in respect of that offence if—
- (a) the dog is not a dangerous dog; or
 - (b) the dog is a dangerous dog, but an amount does not appear in the fourth column directly opposite that offence.
- (3) The amount appearing in the fourth column of Schedule 1 directly opposite an offence is the modified penalty payable in respect of that offence if the dog is a dangerous dog.

6.4 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 notices

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	500
3.5	Failure to comply with conditions of approval to keep additional dog or dogs	200	500
4.1	Places where dogs are prohibited absolutely	200	500
5.2(2)	Dog excreting in public place	250	250

Dated 27 June 2023.

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

LORRAINE YOUNG, Mayor.
WILLIAM MATTHEW SCOTT, Chief Executive Officer.
