

DOG ACT 1976

LOCAL GOVERNMENT ACT 1995



**TOWN OF COTTESLOE
DOGS LOCAL LAW 2024 - CONSOLIDATED**

Government Gazette 4 August 2023
2024 Amendment Government Gazette 16 July 2024

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SCHEDULE 1 – PRESCRIBED OFFENCES

DOG ACT 1976

LOCAL GOVERNMENT ACT 1995

TOWN OF COTTESLOE

DOGS LOCAL LAW 2024 - CONSOLIDATED

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. The Local Law was subsequently amended on 27 February 2024.

PART 1 - PRELIMINARY

1.1 Citation

This local law may be cited as the *Town of Cottesloe Dogs Local Law 2024 - Consolidated*.

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The *Town of Cottesloe Dogs Local Law 2011*, as amended, published in the *Government Gazette* on 26 July 2011 is repealed.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

This local law consolidates the *Town of Cottesloe Dogs Local Law 2023* as published in the *Government Gazette* on 4 August 2023 with the *Town of Cottesloe Dogs Amendment Local Law 2024* as amended and published in the *Government Gazette* on 16 July 2024.

1.6 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 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.
- (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 3.3;
- (b) the effect which approval of the proposed application may have on the environment or the amenity of the neighbourhood;
- (c) whether approval of 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 1 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 February 2024

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

MAYOR

CHIEF EXECUTIVE OFFICER

This Local Law was published in the *Government Gazette* on 4 August 2023 and came into force on 18 August 2023. An amendment to the Local Law was published in the *Government Gazette* on 16 July 2024 and came into force on 31 July 2024.