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**DOG ACT 1976
LOCAL GOVERNMENT ACT 1995**

CITY OF SOUTH PERTH

DOG LOCAL LAW 2011

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FIRST SCHEDULE

SECOND SCHEDULE

DOG ACT 1976
LOCAL GOVERNMENT ACT 1995

CITY OF SOUTH PERTH

DOG 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 City of South Perth resolved on 28 June 2011 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as *the City of South Perth Dog Local Law 2011*.

1.2 Commencement

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

1.3 Repeal

The *City of South Perth Local Law Relating to Dogs No. 2 of 1997* published in the *Government Gazette* on 9 December 1997 is repealed.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 under section 29(1) of the Act 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 area of the State that has been declared to be the district of the local government under the *Local Government Act 1995* and includes, for certain purposes provided for in this Act, other areas which although not being within the boundaries of the district are regarded for those purposes as being part of the district;

local government means the City of South Perth;

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;

owner, in relation to a dog, has the same meaning as in section 3(1) and (2) of the Act;

person liable for the control of the dog has the same meaning as in section 3(1) of the Act;

penalty unit means the amount prescribed by the local government as a standard penalty unit in the *City of South Perth Local Law Relating to Penalty Units*, published in the *Government Gazette* on 20 June 2003, as amended from time to time;

pound means—

(a) the facility located on the corner of Hayman Rd and Thelma St, Como; and

(b) any other facility, of any replacement facility, established as a pound by the Council under section 11(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(1) of the Act;

public building means a building open to or used by the public for any purpose;

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 Fees and charges

The following fees and charges 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 fees for the destruction and 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 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 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; and
 - (b) that he or she is the person identified as the owner on a microchip implanted in the dog.

2.4 Offences relating to pounds

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.

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 that portion of the premises on which the dog is kept to be fenced in a manner capable of confining the dog;
- (b) 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;
- (c) maintain the fence and all gates and doors in the fence in good order and condition; and
- (d) where no part of the premises consists of open space, yard or garden or there is no open space, 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) An occupier who fails to comply with subclause (1) commits an offence.

3.2 Limitation on the number of dogs

(1) This clause does not apply to premises in respect of which an exemption under 26(3) of the Act applies.

(2) The limit on the number of dogs which may be kept on any premises is, for the purpose of section 26(4) of the Act, 2 dogs over the age of 3 months and the young of those dogs under that age.

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) a public building, unless permitted by a sign;
- (b) a theatre of picture gardens;
- (c) food business premises (other than an alfresco area) or a food transport vehicle for the purposes of the *Food Act 2008*;
- (d) a public swimming pool; and
- (e) those beaches, reserves and freehold land marked as 'prohibited' in the Second Schedule.

(2) Clause 4.1(e) does not apply to a built path or bridge that may be within the areas Listed.

(3) 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.

4.2 Places which are dog exercise areas

(1) Subject to clause 4.1 and subclause (2) of this clause, for the purposes of section 31 and 32 of the Act, all parks and reserves under the care, control and management of the local government are dog exercise areas except for the following—

- (a) all of 16 Morrison St, Como known as the Collier Park Retirement Village; and
- (b) those portions marked as 'on leash' in the Second Schedule.

(2) Subclause (1) does not apply to—

- (a) an area within 5 metres of land which has been set apart as a children's playground;
- (b) any area within 5 metres of the edge of playing fields being used for organised sporting or other activities, as permitted by the local government, during the times of such use; or
- (c) a car park.

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.

(3) A person liable for the control of a 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 6.5; and

notice of withdrawal means the notice referred to in clause 6.8(1).

6.2 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.

6.3 General penalty

A person who commits an offence under this local law is liable, on conviction, to a penalty not exceeding—

- (a) \$2,000, where the offence involves a dangerous dog; or
- (b) otherwise, \$1000,

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.

6.4 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 offence does not involve a dangerous dog; or
- (b) the offence involves 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 offence involves a dangerous dog.

6.5 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.

6.6 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.

6.7 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 replay 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 acknowledgement.

6.8 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 6.5 cannot sign or send a notice of withdrawal.

6.9 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 him or her, or as recorded by the local government Act, or as ascertained from inquiries made by the local government.

6.10 Penalty units

If this local law expresses a modified penalty as a number of penalty units, the monetary value of the modified penalty is the number of dollars obtained by multiplying the value of the penalty unit by the number of penalty units.

First Schedule

OFFENCES IN RESPECT OF WHICH MODIFIED PENALTY APPLIES

[clause 6.4]

Offence	Nature of Offence	Modified Penalty Units	Dangerous Dog Modified Penalty Units
2.4(a)	Attempting to or causing the unauthorised release of a dog from a pound	20	40
2.4(b)	Interfering with any pound or vehicle used for the purpose of catching, holding or conveying dogs	20	20
3.1	Failing to provide means for effectively	5	20

	confining a dog		
4.1(2)	Dog in place from which prohibited absolutely	20	40
5.1(2)	Dog excreting in prohibited place	4	4

Second Schedule



This local law was made at the meeting of the Council of the City of South Perth held on 28 June 2011.

The Common Seal of the City of South Perth was affixed by authority of a resolution of the Council in the presence of—

J. BEST, Mayor.
S. BELL, Acting Chief Executive Officer.

