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DOG ACT 1976

CITY OF PERTH

DOG LOCAL LAW 2011

DOG ACT 1995

CITY OF PERTH

DOG LOCAL LAW 2011

Under the powers conferred by the *Dog Act 1976* and under all other powers enabling it, the Council of the City of Perth resolved on 21 February 2012 to make the *City of Perth Dog Local Law 2011*, as set out below.

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DOG ACT 1995

CITY OF PERTH

DOG LOCAL LAW 2011**PART 1 — PRELIMINARY****Title**

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

Commencement

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

Purpose and Intent

1.3 (1) The purpose of this local law is to provide for the regulation, control and management of the keeping of dogs within the district of the City of Perth.

(2) The effect of this local law is to establish the requirements with which owners and occupiers of land within the district of the City of Perth must comply in order to keep dogs and provides the means of enforcing the local law.

Repeal

1.4 The City of Perth Local Law Relating to Dogs as published in the *Government Gazette* on 24 June 1988 is repealed on the day that this local law comes into operation.

Application

1.5 This local law applies throughout the district.

Definitions

1.6 In this local law, unless the context otherwise requires—

“**Act**” means the *Local Government Act 1995*;

“**Application**” means the completed form lodged by an applicant as required by this local law;

“**Applicant**” means the owner or occupier of premises who makes an application for a permit under this local law;

“**Authorised Person**” means the CEO or any other person authorised by the City under section 9.10 of the Act to be an authorised person for the purposes of enforcing the provisions of this local law;

“**CEO**” means the Chief Executive Officer of the City;

“**City**” means the City of Perth;

“**city planning scheme**” means any town planning scheme for the time being applying zoning or classification to land within the district that has been made by the City under the *Planning and Development Act 2005*;

“**Council**” means the Council of the City of Perth;

“**District**” means the district of the City;

“**Dangerous Dog**” has the same meaning as given to it in section 3.1 of the *Dog Act 1976*;

“**Dog Act**” means the *Dog Act 1976*;

“**Dog Regulations**” means the *Dog Regulations 1976*;

“**Kennel**” means any structure or land used for the boarding or breeding of dogs;

“**Lot**” has the meaning given to it in the *Planning and Development Act 2005*;

“**Planning Approval**” means an approval issued under the city planning scheme as amended from time to time;

“**Pound**” means a building or yard established by the City or authorised person for the impounding of dogs or animals for the purposes of this local law;

“**Pound Keeper**” means a person or company authorised by the City to perform all or any of the functions conferred on a “pound keeper” under this local law;

“**Public Place**” means any place to which the public have access;

“**Regulations**” means the *Local Government (Functions and General) Regulations 1996*;

“**Seized**” means a dog seized by an authorised person, but not having been placed in a pound;

“**Thoroughfare**” has the meaning given to it in section 1.4 of the Act;

“**Valid**” in relation to a licence issued under this local law means current and for which all the associated fees have been paid in full.

PART 2—IMPOUNDING OF DOGS

Attendance of pound keeper at pound

2.1 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 City.

Release of impounded dogs

2.2 (1) A claim for the release of a dog seized or impounded is to be made to the pound keeper or in the absence of the pound keeper, to the Chief Executive Officer.

(2) The pound keeper is not to release a dog seized or impounded to any person unless that person has produced, to the satisfaction of the pound keeper, satisfactory evidence—

- (a) the dog has been registered or is currently registered;
- (b) of his or her ownership of the dog or of his or her authority to take delivery of it; or
- (c) that he or she is the person identified as the owner on a microchip implanted in the dog.

(3) The pound keeper is not to release a dog seized or impounded to any person detailed in subclause (2) unless the fees and charges specified have been paid.

No breaking into or destruction of pound

2.3 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 ineffective—
 - (i) any pound; or
 - (ii) any vehicle or container used for the purpose of catching, holding or conveying a seized dog, commits an offence.

Charges and costs

2.4 The following are to be imposed and determined by the City under sections 6.16 to 6.19 of the Act—

- (a) the charges to be levied under section 29 (4) of the *Dog Act 1976* relating to the seizure and impounding of a dog;
- (b) the additional fee payable under section 29 (4) of the *Dog Act 1976* where a dog is released at a time or on a day other than those determined under clause 2.2;
- (c) the costs of the destruction and the disposal of a dog referred to in section 29 (15) of the *Dog Act 1976*; and
- (d) the charges for the sustenance and maintenance of a dog in a pound per day or part thereof.

Services of Veterinary Surgeon

2.5 The City may engage the services of a Veterinary Surgeon registered pursuant to the *Veterinary Surgeons Act 1960* to implement the euthanasia of dogs required to be destroyed by the City pursuant to the *Dog Act 1976* or this local law.

PART 3—REQUIREMENTS AND LIMITATIONS ON THE KEEPING OF DOGS

Dogs to be confined

3.1 (1) The owner or occupier of premises on which a dog is kept must—

- (a) cause the 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, prevents the dog from passing over, under or through the fence;
- (c) ensure that every gate or door in the fence is kept closed at all times when the dog is on the premises and is fitted with a proper latch or other means of fastening it;
- (d) 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 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.

Limitation on the number of dogs

3.2 (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 *Dog Act 1976*.

(2) For the purpose of section 26 (4) of the *Dog Act 1976*, the limit on the number of dogs which may be kept on any premises is 2 dogs over the age of 3 months and the young of those dogs under that age.

PART 4—APPROVED KENNEL ESTABLISHMENTS**Interpretation**

4.1 In this Part and in the Second Schedule—

“**adjoining**” means land or premises which have a common boundary or portion of a boundary with a lot or is separated from that lot by a right-of-way, pedestrian access way, access leg of a battleaxe lot or the equivalent not more than 6m in width;

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

“**licensee**” means the holder of the licence;

“**premises**”, in addition to the meaning given to it in section 3 of the *Dog Act 1976*, means the premises described in the application for a licence; and

“**transferee**” means a person who applies for the transfer of a licence to him or her under clause 4.13 of this local law.

Application for licence for approved kennel establishment

4.2 An application for a licence must be made in the form of that in the First Schedule, and must be lodged with the City 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 of this local law;
- (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 CEO, sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare;
- (d) a written acknowledgment that the applicant has read and agrees to comply with any code of practice relating to the keeping of dogs adopted or nominated by the City;
- (e) the fee for the application for a licence referred to in clause 4.9 (1) of this local law; and
- (f) a copy of a Planning Approval issued by the City under a city planning scheme.

Notice of proposed use

4.3 (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 owner 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 City.

(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 CEO, would fail to serve the purpose of notifying persons of the proposed use of the premises, then the City 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.

When application can be determined

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

Determination of application

4.5 In determining an application for a licence, the City 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 extent to which the kennel establishment may create a nuisance for the owners and occupiers of adjoining premises; and
- (e) 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.

Where application cannot be approved

4.6 The City cannot approve an application for a licence where—

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

Conditions of approval

4.7 (1) The City may approve an application for a licence subject to the conditions contained in the Second Schedule and to such other conditions as the City considers appropriate.

(2) In respect of a particular application for a licence, the City may vary any of the conditions contained in the Second Schedule.

Compliance with conditions of approval

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

Fees

4.9 (1) On lodging an application for a licence, the applicant is to pay a fee to the City.

(2) On the issue or renewal of a licence, the licensee is to pay a fee to the City.

(3) On lodging an application for the transfer of a valid licence, the transferee is to pay a fee to the City.

(4) The fees referred to in subclauses (1) to (3) are to be imposed and determined by the City under sections 6.16 to 6.19 of the Act.

Form of licence

4.10 The licence is to be in the form determined by the City and is to be issued to the licensee.

Period of licence

4.11 (1) The period of effect of a licence is set out in section 27 (5) of the *Dog Act 1976*.

(2) A licence is to be renewed if the fee referred to in clause 4.9 (2) is paid to the City 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.

Variation or cancellation of licence

4.12 (1) The City may through a written notice to the licensee vary the conditions of a licence.

(2) The City may cancel a licence—

- (a) on the request of the licensee;
- (b) following a breach of the *Dog Act 1976*, the *Dog Regulations 1976* or this local law; or
- (c) if in the opinion of the CEO the licensee is not a fit and proper person to hold a licence.

(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 *Dog Act 1976*.

(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.

Transfer

4.13 (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 City;
- (b) made by the transferee;
- (c) made with the written consent of the licensee; and
- (d) lodged with the City 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 4.9 (3).

(2) The City is not to determine an application for the transfer of a valid licence until the transferee has complied with subclause (1).

(3) The City 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 City 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 4.14 (b), the transferee becomes the licensee of the licence for the purposes of this local law.

Notification

4.14 The City is to give written notice to—

- (a) an applicant for a licence of the City's decision on his or her application;
- (b) a transferee of the City's decision on his or her application for the transfer of a valid licence;
- (c) a licensee when his or her licence is due for renewal and the manner in which it may be renewed; or
- (d) a licensee when his or her licence is renewed.

Objections and appeals

4.15 (1) Where the City makes a decision as to whether it will—

- (a) grant an application for a licence;
- (b) vary or cancel a licence; or
- (c) impose or amend a condition to which a licence is subject,

the provisions of Division 1 of Part 9 of the Act and regulation 33 of the Regulations apply to that decision.

(2) Under these provisions, an affected person may have the right to object to, or to appeal against, a decision of the City.

Inspection of kennel

4.16 Subject to 24 hours notice in writing to the licensee, an authorised person may inspect an approved kennel establishment at any time.

PART 5 — DOGS IN PUBLIC PLACES

Places where dogs are prohibited absolutely

5.1 (1) A person liable for the control of a dog shall, subject to clause 5.1 (2), prevent that dog entering or being in or upon any of the following—

- (a) a public building;
- (b) shop or business premises, other than a shop or business premises where dogs are sold or treated for illness or injury; and
- (c) in all the areas prescribed in the Fourth Schedule.

(2) If a dog enters or is in a place specified in clause (1), every person liable for control of the dog at the time commits an offence.

(3) Clause 5.1 (1) does not apply to guide dogs or hearing dogs assisting blind or partially blind persons or other disabled persons.

Dog exercise areas

5.2 (1) For the purposes of sections 31 and 32 of the *Dog Act 1976*, subject to clause 5.2 (2) public places within the City of Perth that are dog exercise areas are listed in the Fifth Schedule.

(2) A place listed in the Fifth Schedule is **not** a dog exercise area if it—

- (a) is being used for an organised function, sporting activity or event attended by people;
- (b) is land which has been set apart as a children's playground;
- (c) is a thoroughfare or pathway.

PART 6 — MISCELLANEOUS

Offence to defecate

6.1 (1) A dog must not defecate 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 defecates contrary to subclause (1), every person liable for the control of the dog at that time commits an offence.

(3) The person liable for the control of the dog does not commit an offence against subclause (2) if any defecation is removed immediately by that person.

PART 7 — ENFORCEMENT**Interpretation**

7.1 In this Part—

“**infringement notice**” means the notice referred to in clause 7.3; and

“**notice of withdrawal**” means the notice referred to in clause 7.6 (1).

Modified penalties

7.2 (1) The offences contained in the Third Schedule are offences in relation to which a modified penalty may be imposed.

(2) The amount appearing in the fourth column of the Third Schedule 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 fifth column directly opposite that offence.

(3) The amount appearing in the fifth column of the Third Schedule directly opposite an offence is the modified penalty payable in respect of that offence if the dog is a dangerous dog.

Issue of infringement notice

7.3 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 *Dog Regulations 1976*.

Failure to pay modified penalty

7.4 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.

Payment of modified penalty

7.5 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 City the amount of the penalty, with or without a reply as to the circumstances giving rise to the offence, and the City may appropriate that amount in satisfaction of the penalty and issue an acknowledgment.

Withdrawal of infringement notice

7.6 (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 *Dog Regulations 1976*.

(2) A person authorised to issue an infringement notice under clause 7.3 cannot sign or send a notice of withdrawal.

Service

7.7 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 City under the *Dog Act 1976*, or as ascertained from inquiries made by the City.

Penalty

7.8 Any person who contravenes any provision of this local law or fails to comply with a notice issued under this local law commits an offence not exceeding \$2,000.

First Schedule

City of Perth

DOG LOCAL LAW 2011

APPLICATION FOR A LICENCE FOR AN APPROVED KENNEL ESTABLISHMENT

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) a 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).....

Second Schedule

City of Perth

DOG LOCAL LAW 2011

CONDITIONS OF A LICENCE FOR AN APPROVED KENNEL ESTABLISHMENT

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 5m 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 City;

- (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 City;
 - (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 City;
 - (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 City;
 - (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 City, sufficiently close to the premises so as to control the dogs, and to ensure their health and welfare.
-

Third Schedule

City of Perth

DOG LOCAL LAW 2011

OFFENCES AND MODIFIED PENALTIES

Item No.	Clause No.	Nature of Offence	Modified Penalty \$	Dangerous Dog Modified Penalty \$
1	2.3(a)	Attempting to or causing the unauthorised release of a dog from a pound	200	400
2	2.3(b)	Interfering with or rendering ineffective any pound or vehicle used for the purpose of catching, holding or conveying a seized dog	200	400
3	3.1(2)	Failing to provide means for effectively confining a dog	100	200
4	4.8	Failing to comply with the conditions of a licence for an approved kennel establishment	400	
5	5.1(2)	Dog in a place from which it is prohibited absolutely	200	400
6	6.1 (1)(a)(b)	Allowing a dog to defecate in a public place or any land which is not a public place without the consent of the occupier	100	

Fourth Schedule

City of Perth

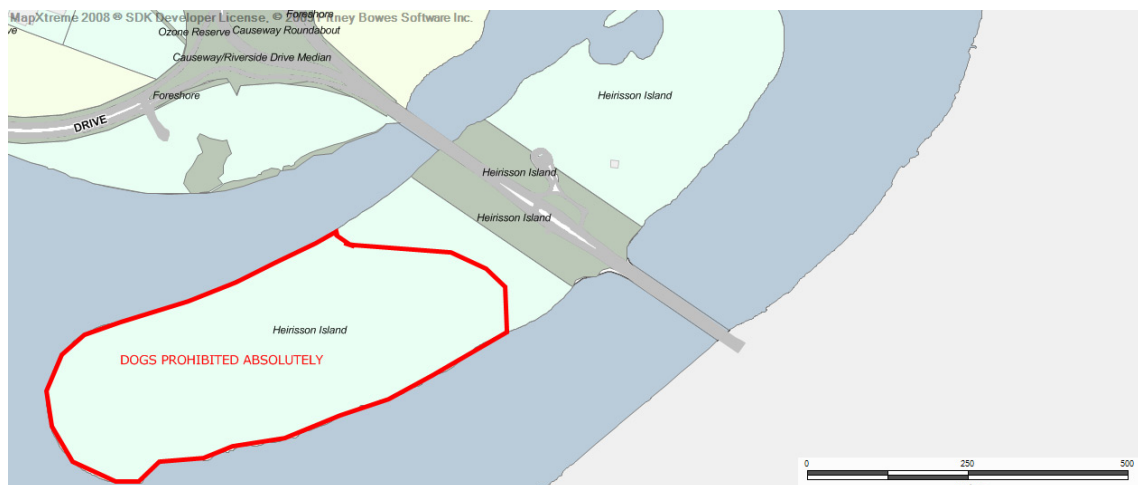
DOG LOCAL LAW 2011

AREAS IN WHICH DOGS ARE PROHIBITED ABSOLUTELY

(clause 5.1 (1) (c))

Listing of areas where dogs are prevented being upon absolutely (other than public buildings or shop or business premises which are already included in clause 5.1)

Kangaroo enclosure on Heirisson Island, as depicted in map below.



Fifth Schedule

City of Perth

DOG LOCAL LAW 2011

AREAS WHICH ARE DOG EXERCISE AREAS

(clause 5.2 (e))

Listing of areas where dogs can be exercised additional to those areas specified in clause 5.2

WELLINGTON SQUARE—EAST PERTH: Reserve No. 19, bounded by Wellington, Bennett, Wittenoom and Hill Streets, East Perth.

TOTTERDELL PARK—WEST PERTH: Reserve bounded by Colin and Thomas Street.

Dated this 7th day of March 2012.

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

Ms LISA-M. SCAFFIDI, The Rt Hon the Lord Mayor.
FRANK EDWARDS, Chief Executive Officer.
