

DOG ACT 1976
SHIRE OF MENZIES
DOGS LOCAL LAW 2007

Under the powers conferred by the Local Government Act 1995, and all other powers, the Council of the Shire of Menzies resolved to make the following Local Law on the 18th day of May 2007.

PART 1—PRELIMINARY

- 1.1 Citation
- 1.2 Repeal
- 1.3 Definitions
- 1.4 Application

PART 2—IMPOUNDING OF DOGS

- 2.1 Charges and costs
- 2.2 Attendance of pound keeper at pound
- 2.3 Release of impounded dog
- 2.4 No breaking into or destruction of pound

PART 3—REQUIREMENTS AND LIMITATIONS ON THE KEEPING OF DOGS

- 3.1 Dogs to be confined
- 3.2 Limitation on the number of dogs

PART 4—BLANK

PART 5—DOGS IN PUBLIC PLACES

- 5.1 Places where dogs are prohibited absolutely
- 5.2 Places which are dog exercise areas

PART 6—MISCELLANEOUS

- 6.1 Offence to excrete

PART 7—ENFORCEMENT

- 7.1 Interpretation
- 7.2 Modified penalties
- 7.3 Issue of infringement notice
- 7.4 Failure to pay modified penalty
- 7.5 Payment of modified penalty
- 7.6 Withdrawal of infringement notice
- 7.7 Service

SCHEDULE 1

SCHEDULE 2

SCHEDULE 3

DOG ACT 1976

SHIRE OF MENZIES

DOGS LOCAL LAW 2007

Under the powers conferred by the Dog Act 1976 and under all other powers enabling it, the Council of the Shire of Menzies resolved on the 18th May 2007 to propose the following local law.

PART 1 - PRELIMINARY

Citation

1.1 This local law may be cited as the *Shire of Menzies Dogs Local Law 2007*.

Repeal

1.2 The By-Laws Relating to Dogs published in the *Government Gazette* on 22 July 1988, are repealed.

Definitions

1.3 In this local law unless the context otherwise requires—

“**Act**” means the *Dog Act 1976*;

“**authorized person**” means a person authorized by the local government to perform all or any of the functions conferred on an authorized person under this local law;

“**CEO**” means the chief executive officer of the local government;

“**local government**” means the Shire of Menzies;

“**pound keeper**” means a person authorized by the local government to perform all or any of the functions conferred on a “pound keeper” under this local law;

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

“**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 *Town Planning and Development Act 1928* which applies throughout the whole or a part of the district.

Application

1.4 This local law applies throughout the district.

PART 2—IMPOUNDING OF DOGS

Charges and costs

2.1 The following are to be imposed and determined by the local government under sections 6.16—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.

Attendance of pound keeper at pound

2.2 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.

Release of impounded dog

- 2.3 (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.

No breaking into or destruction of pound

2.4 A person who—

- (a) unless he or she is the pound keeper or a person authorized 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.

Penalty: Where the dog is a dangerous dog, \$2,000; otherwise \$1,000.

PART 3—REQUIREMENTS AND LIMITATIONS ON THE KEEPING OF DOGS

Dogs to be confined

3.1 (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 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 kept is a dangerous dog, \$2,000; otherwise \$1,000.

Limitation on the number of dogs

3.2 (1) This clause does not apply to premises which have been 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 is, for the purpose of section 26(4) of the Act—

- (a) 2 dogs over the age of 3 months and the young of those dogs under that age if the premises are situated within a townsite; or
- (b) 6 dogs over the age of 3 months and the young of those dogs under that age if the premises are situated outside a townsite.

PART 4—BLANK

PART 5—DOGS IN PUBLIC PLACES

Places where dogs are prohibited absolutely

5.1 (1) 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 or picture gardens,
- (c) all premises or vehicles classified as food premises or food vehicles under the Health (*Food Hygiene*) Regulations 1993;
- (d) a public swimming pool.

(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.

Penalty: Where the dog is a dangerous dog, \$2,000; otherwise \$1,000.

Places which are dog exercise areas

5.2 Subject to clause 5.1 for the purposes of sections 31 and 32 of the Act the following public places are specified as dog exercise areas –

- (a) Menzies townsite – Reserve 4592; and
- (b) Kookynie townsite – Reserve 8080.

PART 6—MISCELLANEOUS

Offence to excrete

6.1 (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: \$200.

(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 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 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.

Issue of infringement notice

7.3 Where an authorized 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.

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 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.

Withdrawal of infringement notice

- 7.6 (1) Whether or not the modified penalty has been paid, an authorized 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 authorized 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 local government under the Act, or as ascertained from inquiries made by the local government.

SCHEDULE 1 - BLANK

SCHEDULE 2 - BLANK

SCHEDULE 3 (clause 7.2)

OFFENCES IN RESPECT OF WHICH MODIFIED PENALTY APPLIES

Offence	Nature of offence	Modified penalty \$	Dangerous Dog Modified Penalty \$
2.4(a)	Attempting to or causing the unauthorized release of a dog from a pound	200	400
2.4(b)	Interfering with any pound or vehicle used for the Purpose of catching, holding or conveying dogs	200	
3.1	Failing to provide means for effectively confining a dog	50	200
5.1(2)	Dog in place from which prohibited absolutely	200	400
6.1(2)	Dog excreting in prohibited place	40	

Dated this 18th day of May 2007.

The Common Seal of the Shire of Menzies was affixed by authority of a resolution of Council in the presences of –

S.F. TONKIN, President.
N.P. CRAWFORD, Chief Executive Officer.

Notes –

- 1. Originally published in Government Gazette No.141 on 6 July 2007
- 2. Compilation done 16 May 2014 for Local Laws Review