

**LOCAL GOVERNMENT ACT 1995  
DOG ACT 1976**

**SHIRE OF MENZIES**

**DOGS LOCAL LAW 2021**

**Consolidated to 15 July 2022**

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LOCAL GOVERNMENT ACT 1995  
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**DOGS LOCAL LAW 2021**

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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 Menzies resolved on 25 November 2021 to make the following local law.

**PART 1 - PRELIMINARY**

**1.1 Citation**

This local law may be cited as the *Shire of Menzies Dogs Local Law 2021*.

**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, excluding –

- (a) Crown Reserve 30490 Great Victoria Desert Nature Reserve and the Tjuntjuntjara Community located within that Reserve; and
- (b) the land subject to Native Title Determination WCD2000/003 – Spinifex People north of Crown Reserve 30490.

**1.4 Repeal**

The *Shire of Menzies Dogs Local Law 2007* published in the *Government Gazette* on 6 July 2007, is repealed.

**1.5 Definitions**

In this local law unless the context otherwise requires –

**Act** means the *Dog Act 1976*;

**adjoining** includes land or premises which have a portion of a common boundary with a lot or is separated from that lot by a public reserve, road, right-of-way, pedestrian access way, access leg of a battle-axe lot or the equivalent not more than 6m in width;

**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** has the meaning given to it by section 3(1) of the Act;

**district** means the district of the Shire of Menzies;

**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 6.4;

**kennel establishment** means any premises licensed under section 27 of the Act where more than the number of dogs under clause 3.3 over the age of 3 months are kept, boarded, trained or bred;

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

**local planning scheme** means a planning scheme of the local government made under the *Planning and Development Act 2005*;

**notice of withdrawal** means the notice referred to in clause 6.7(1);

**nuisance** 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;
- (b) an unreasonable interference with the use and enjoyment of a person's 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 dog, has the same meaning as in section 3(1) of the Act;

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

**premises** in addition to the meaning given to it in section 3(1) of the Act;

**public place** has the meaning given to it by section 3(1) of the Act;

**Regulations** means the *Dog Regulations 2013*;

**Schedule** means a schedule to this local law;

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

**townsite** means the townsites of Menzies and Kookynie as identified by the local planning scheme.

## PART 2 - IMPOUNDING OF DOGS

### 2.1 Attendance of authorised person at dog management facility

An 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 determined by the CEO.

### 2.2 Release of impounded dog

- (1) A claim for the release of a dog seized and impounded is to be made to an authorised person or if absent, to the CEO.
- (2) An authorised person is not to release a dog seized and impounded to any person unless that person has produced, to the satisfaction of an authorised person, 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.

### 2.3 Unauthorised release

Unauthorised release of dogs is dealt with by section 43(1)(d) of the Act.

## 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 subclause (1), he or she commits an offence.
- (3) Notwithstanding subclause (1) and (2), the confinement of dangerous dogs is dealt with in the Act and the 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) licensed under section 27 of the Act as an approved kennel establishment.
- (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) two dogs over the age of three months and the young of those dogs under that age if the premises are within Menzies or Kookynie townsites; or
  - (b) four dogs over the age of three months and the young of those dogs under that age if the premises are outside of Menzies or Kookynie townsites.

### **3.3 Application to keep additional dog or dogs**

Subject to clause 3.5, the local government may consider –

- (1) an application to keep additional dogs to a maximum of four dogs on premises within Menzies or Kookynie townsites, which shall –
  - (a) provide sufficient detail regarding the reason for keeping more than two dogs;
  - (b) provide written consent from owners and occupiers of any premises adjoining the premises; and
  - (c) in the case of a tenanted property, provide written consent from either the landowner or their appointed real estate agent.
- (2) an application to keep more than four dogs on premises outside the Menzies and Kookynie townsites, which shall –
  - (a) provide sufficient detail regarding the reason for keeping more than four dogs; and
  - (b) in the case of a tenanted property, provide written consent from either the landowner or their appointed real estate agent.
- (3) applications 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 all 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; or
    - (v) on premises outside the Menzies and Kookynie townsites, the dog or dogs are required for stock management or to be on the premises temporarily for the purposes of training for stock management.

*[Clause 3.3 amended by Government Gazette No. 110 of 2022]*

### **3.4 Determination of application**

In determining an application for approval to keep additional dogs, the local government is to have regard to –

- (a) the matters referred to in clause 3.5;
- (b) the effect which approval of the proposed may have on the environment or amenity of the neighbourhood; and
- (c) whether approval of the application may create a nuisance for the owners and occupiers of adjoining premises.

### **3.5 Where application cannot be approved**

The local government will not approve an application to keep an additional dog or dogs where –

- (a) more than four dogs are proposed to be kept on premises within the Menzies or Kookynie

- townsites;
- (b) more than six dogs are proposed to be kept on premises outside the Menzies or Kookynie townsites; or
- (c) where any dog already kept or proposed to be kept on the premises is a dangerous dog.

### **3.6 Conditions of approval**

The local government may approve an application to keep additional dogs subject to any conditions as considered appropriate.

### **3.7 Variation of permit conditions**

The local government may vary the conditions of approval to keep additional dogs by giving not less than 14 days notice.

### **3.8 Transfer of approval not permitted**

Transfer of approval to keep additional dogs is not transferable to –

- (a) successive owners or occupiers of the premises; or
- (b) alternative premises.

### **3.9 Revocation of approval to keep additional dogs**

Where a person does not comply with the conditions of approval to keep an additional dog or dogs under clause 3.6 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 who is being used as an assistance animal as defined in the *Disability Discrimination Act 1992* (Commonwealth).

### **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 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) 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**

- (1) 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.

- (2) Notwithstanding subclause (1) a person who commits an offence under clause 5.1(2) is liable, on conviction, to a penalty not exceeding \$1,000.

### **6.3 Modified penalties**

The offences contained in Schedule 1 are offences in relation to which a modified penalty may be imposed.

### **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 8 of Schedule 1 of the Regulations.

### **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 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.

### **6.6 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 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.

### **6.7 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 Schedule 1 of the Regulations.
- (2) A person authorised to issue an infringement notice under clause 6.4 cannot sign or send a notice of withdrawal.

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## **Schedule 1 – Prescribed offences**

[cl.7.3]

<b>Item</b>	<b>Clause</b>	<b>Nature of offence</b>	<b>Modified penalty \$</b>
1	3.1	Failing to provide means for effectively confining a dog	200
2	3.6	Failure to comply with conditions of approval to keep additional dog or dogs	200
3	5.1	Dog excreting in prohibited place	100

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Dated 25 November 2021

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

G. DWYER, President

**Notes to this administrative compilation –**

1. Original local law published in *Government Gazette* No.4 on 12 January 2022
2. Amended as published in *Government Gazette* No.110 on 15 July 2022