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DOG ACT 1976

**SHIRE OF MUNDARING
LOCAL LAW RELATING TO
DOGS**

DOG ACT 1976

THE LOCAL GOVERNMENT OF THE SHIRE OF MUNDARING

LOCAL LAW RELATING TO DOGS

In pursuance of the powers conferred upon it by the above mentioned Act and all other powers enabling it, the Council of the Local Government of the Shire of Mundaring hereby records having resolved on the 26 August 1997 to make the following Local Law.

REVOCATION

1. The Local Law of the Shire of Mundaring relating to dogs published in the *Government Gazette* on the 12th of September 1980 and amended in the *Government Gazette* of 21st November 1986, 7 December 1990, 8 February 1991 and 29 November 1991 are hereby revoked.

CITATION

2. This Local Law may be cited as the Shire of Mundaring Local Law relating to dogs.

PART 1—INTERPRETATION

3. In this Local Law unless the context otherwise requires—

“Act” means the Dog Act 1976.

“Authorised Person” means a Ranger or any person who is authorised by Council to administer and enforce the provisions of this Local Law.

“CEO” means the Chief Executive Officer of the Shire of Mundaring or a person acting for the time being in that capacity.

“Council” means the Council of the Local Government of the Shire of Mundaring.

“District” means the district of the Local Government of the Shire of Mundaring constituted pursuant to the Local Government Act 1995.

“Fence” includes a wall and retaining wall.

“Food Premises” has the meaning given to it in the Health Act 1911.

“Metropolitan Region” has the meaning given to it in Section 6 of the Metropolitan Region Town Planning Scheme Act 1959.

“Person liable for the control of a dog” has the meaning given to it in the Act.

“Premises” has the meaning given to it in the Act.

“Public place” has the meaning given to it in the Act.

“Public buildings” includes each of the following—

- (a) churches;
- (b) cinemas;
- (c) community sporting and recreation centres and public swimming pools;
- (d) premises licensed under the Liquor Licensing Act 1988; and
- (e) public and private primary, secondary and tertiary places of education.

“Regulations” means the Dog Act Regulations 1976

“Townsite” shall mean those areas of land within the District delineated and gazetted as townsites pursuant to the Land Act 1933.

Unless the context otherwise requires, all other words and expressions in this Local Law have the meaning given to them in the Act.

PART 2—IMPOUNDING OF DOGS

4. The Council may establish and maintain a pound or pounds for the impounding of dogs seized pursuant to the Act.

5. Where a dog has been seized and placed in a pound, an Authorised Person, shall, if the owner or person usually in charge of the dog is known to him forthwith, notify such person that the dog has been impounded.

6. An Authorised Person shall be in attendance at the pound for the release of dogs at such time and on such days of the week as shall from time to time be determined by the CEO.

7. A person applying for the release of a dog lawfully impounded shall first provide to the Authorised Person evidence satisfactory to the Authorised Person that he or she is the owner of that dog. No action lies against a Council or Authorised Person in respect of the release to any person, of any dog lawfully impounded.

8. Prior to the release of any dog lawfully impounded the owner, or a person appointed in writing by him or her, shall pay to Council—

- (a) all and any fees owing to Council in respect of the seizure, impoundment and maintenance of that dog;
- (b) any veterinary fees which may have been reasonably incurred by the Council in relation to the treatment of that dog; and
- (c) any registration fees owing pursuant to the Act in respect of the dog.

No unregistered dog which has been lawfully impounded may be released until all registration fees are paid in respect of that dog.

9.1. If a dog is impounded having around its neck a collar with a current registration tag affixed thereto then an Authorised Person shall notify the registered owner of that dog. If all fees owing pursuant to the preceding section are not paid within 72 hours of the service of such a notice an Authorised Person may sell, destroy or otherwise dispose of the dog.

9.2. If a dog without a registration tag is not claimed, and all fees paid, within 72 hours of the dog being received into the pound, then an Authorised Person may sell, destroy or otherwise dispose of the dog.

10. Upon the sale of a dog the proceeds of sale shall be the property of the Council and should be credited to the municipal fund.

No action shall lie against Council for damages or compensation in respect of any dog sold pursuant to this Local Law.

11. Notwithstanding anything herein contained, subject to the provisions of Section 29 (12) of the Act, a dog seized or impounded may at any time be destroyed upon the written authority of a registered veterinary surgeon, medical practitioner, or environmental health officer.

12. If any dog is destroyed by an Authorised Person, whether at the request of the owner or not and whether the dog shall have been seized or impounded or not, the owner shall when so required, pay to the Council any fees prescribed by Council, which fees may include the cost of seizure, impounding, maintaining or destroying the dog.

13. No person shall—

- (a) unless an Authorised Person, attempt to release a dog from a pound.
- (b) destroy, break into, damage, or in any way interfere with a pound.
- (c) destroy, break into, or in any way interfere with any vehicle, trailer, cage, or any container used for the purpose of catching, holding, or conveying dogs which have been seized.

14. The payment of fees in respect of the seizure, care, detention or destruction of a dog shall not relieve the owner of liability to proceedings being instituted by the Council under the Act.

PART 3—KEEPING OF DOGS

15. The owner or occupier of premises within the District shall not, unless the premises are licensed as an approved kennel establishment, or has been granted an exemption in accordance with Section 26(3) of the Dog Act 1976 or the First Schedule of this Local Law, keep or permit to be kept on those premises more than two (2) dogs over the age of three(3) months.

16. The maximum number of dogs which an owner or occupier may keep is prescribed in the First Schedule of this Local Law, subject to—

- (a) The premises complying in all respects with the provisions of the Act and this Local Law, and—
- (b) All dogs being registered in accordance with the Act;
- (c) Notwithstanding the provisions of the First Schedule an owner or occupier of premises may only keep two dogs on those premises if that person or any other person liable for the control of dogs on those premises has been convicted for an offence under the Act on two or more occasions during the twelve months immediately preceding the renewal of the registration; or
- (d) If any part of land comprised within the premises is sold, then immediately the Transfer of Land is registered at the Department of Land Administration, the entitlement to keep dogs shall be calculated in accordance with the area of land remaining after such sale.

17. A person wishing to keep more than the number of dogs as prescribed in the First Schedule but not greater than six (6) dogs on any premises shall apply for an exemption for those premises under the provisions of Section 26(3) of the Dog Act 1976. Any such application shall be made in the form of the Sixth Schedule. The Council may grant an exemption in respect of those premises but any such exemption—

- (a) may be made subject to conditions, including a condition restricting the number of dogs and the breed of dogs which may be kept;
- (b) shall not operate or authorise the keeping of more than six (6) dogs on those premises; and
- (c) may be revoked or varied at any time by Council subject to fourteen (14) days written notice.

18. An occupier of premises on which a dog is kept shall—

- (a) Cause the premises or portion thereof on which a dog is kept to be fenced in a manner capable of confining the dog.

- (b) Ensure any fence used to confine the dog and every gate and 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, shall be 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, but nothing in this Local Law prevents a person from opening the gate in order to enter or leave the premises.
 - (d) Ensure that every gate or door in the fence is fitted with—
 - (i) an efficient self closing mechanism; and
 - (ii) an efficient self latching mechanism attached to the inside of the gate; and
 - (iii) a mechanism which enables the gate or door to be permanently shut.
 - (e) Maintain the fence and all gates and doors in good order and condition;
 - (f) 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 all means exist on the premises for effectively confining the dog within the building on the premises.
19. Where the owner or occupier of any premises wishes to keep more than six (6) dogs on the premises at any one time pursuant to Section 26(3) of the Act, that person shall apply to the Council in the Form of the Third Schedule for a licence to establish an approved kennel establishment on such premises.

PART 4—REGULATIONS OF DOG KENNELS

20. An application for a licence to keep an approved kennel establishment shall be in writing and shall be in the form contained in the Third Schedule.
21. Unless receipt of an application Council may resolve that the application be advertised by:
- (a) not less than one advertisement in a newspaper circulating in the District;
 - (b) the applicant shall give written notice to the owner and occupiers of all premises within an area specified by Council, no less than fourteen (14) days after the lodgement of the application; and
 - (c) Council may also require the applicant to direct, at his cost a notice of sufficient size readable from the street to be erected in a prominent position on the subject land giving notice of the application. The notice shall be maintained on the land for a period of not less than 3 weeks and shall state that the application and associated documents have been lodged at the office of the Council and may be inspected at that place and that submissions and objections may be lodged with the Council before a specified date, not being less than 3 weeks after the erection of the notice.
22. A licence to keep an approved kennel establishment shall not be granted by the Council until Council has considered all written submissions and objections received.
23. Council may grant or refuse an application for a licence under this Part. A licence shall be in the form of the Fourth Schedule and shall be subject to such conditions as Council may impose.
24. A kennel establishment licence remains valid until the 31st October next following, unless it shall have been previously cancelled.
25. An application for renewal of the registration of an approved kennel establishment shall be made in the form of the Fifth Schedule no later than 31 October in each year.
26. The provisions of this Section apply to all proposed kennel establishment licences within the District.

The holder of an approved kennel establishment licence, and any person making application for approved kennel establishment licence shall ensure:

- (a) Each kennel shall have a yard attached thereto.
- (b) Each kennel and each yard and every part thereof shall not be erected closer than thirty (30) metres from all boundaries.
- (c) No part of the kennel or yard shall be closer than twenty (20) metres from any dwelling.
- (d) No part of any kennel or yard shall be closer than fifty (50) metres from any church, school, hall, factory or food premises.
- (e) Notwithstanding the provisions of paragraphs (b), (c) and (d) of this Section. Council may permit a relaxation of the setbacks prescribed therein if it is shown to the satisfaction of Council that adherence to the setbacks would be unduly burdensome on an applicant.
- (f) Each yard for each kennel shall be kept securely fenced with a fence constructed of link mesh or netting or other material approved by Council, and shall be of a height capable of retaining the dog within its confines.
- (g) External gates and doors for each yard or kennel shall be fitted with an efficient self closing and latching mechanism.
- (h) The minimum floor area for each kennel shall be 2.5 square metres for every dog kept therein over the age of three (3) months
- (i) The minimum size of any yard shall not be less than twice the area of the kennel.
- (j) The floor of any yard shall be constructed in the same materials as the floor of any kennel.
- (k) The upper surface of a kennel floor shall be at least 10 cm above the surface of the surrounding ground and shall be constructed of granolithic cement finished to a surface having a fall of not less than 1 to 100 to a drain. All sanitary drains, fixtures and apparatus shall be constructed and maintained in accordance with the relevant provisions of the Health Act 1911 and any other legislation relating to the disposal of effluent.

- (l) The walls of each kennel shall be 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 and designed and constructed to minimise the emission of noise from the kennel.
- (m) The lowest internal height of any kennel shall be two(2) metres from the floor.
- (n) The roof of each kennel shall be approved impervious material designed and constructed to minimise noise emissions from the kennel.
- (o) All external surfaces of each kennel shall be kept in good condition and shall if directed by an Authorised Person of the Council be painted or re-painted with good quality paint.
- (p) All kennels yards and drinking vessels shall be maintained in a clean condition and shall be cleaned and disinfected daily or when so requested by an Authorised Person of the Council.
- (q) Every approved kennel establishment shall be provided with a reticulated water supply in the form of a supported standpipe and hose for the hosing down of the kennels and yards.
- (r) The holder of a licence to keep an approved kennel establishment shall dispose of or cause the disposal of all refuse, faeces and food waste daily into an approved apparatus for the bacteriolytic treatment of sewage.
- (s) Noise, odours, fleas, flies and vermin shall be effectively controlled.

27. No kennel or yard shall be erected until plans and specifications have been approved by the Council by the issue of a building licence pursuant to Part 15 of the Local Government (Miscellaneous Provisions) Act 1960.

28. A kennel establishment licence shall not be granted by the Council unless the applicant for the licence resides on the premises the subject of the licence.

29. An approved kennel establishment is not transferable to other premises.

PART 5—GENERAL

30. The Council may refuse to renew a kennel licence, or may cancel a kennel licence if a licensee does not comply with or the kennel establishment is not kept, in accordance with this Local Law or for any reason relating to the conduct of the kennel resulting in the kennel being a nuisance to neighbours by reason of noise, odours or any other cause.

31. A dog shall not be in any of the following places:

- (a) a public building;
- (b) food premises;
- (c) Bilgoman Swimming Pool (Reserve No 38155) within the area enclosed by the perimeter pool fencing.
- (d) Lake Leschenaultia (Reserve No 23165).
- (e) Mundaring Public Cemetery (Reserve No 10083)
- (f) any other place prohibited to dogs under any other written law.

If a dog is within any of the places specified in this Section then the person liable for the dog commits an offence.

This Section does not apply to dogs used by persons who are blind, or partially blind, deaf or partially deaf or persons engaged in the training of guide and hearing dogs.

32. If a dog excretes on a public place then unless the excreta is removed forthwith and properly disposed of, the person liable for the control of that dog commits an offence.

33. Any person who contravenes or fails to comply with any provisions of this Local Law commits an offence and shall upon conviction be liable to a penalty not exceeding \$2,000.

34. The land specified in the Second Schedule is designated as dog exercise areas for the purpose of the Act.

35. The offences prescribed in the Seventh Schedule are pursuant to Section 45A(2) of the Act as offences in relation to which a modified penalty applies and the amount appearing directly opposite each such offence is the prescribed modified penalty payable in respect of that offence.

36. Where an Authorised Person has reason to believe that a person has committed an offence against this Local Law he may serve upon that person an Infringement Notice and the Infringement Notice issued under this Local Law shall be in the form of Form 7 of the First Schedule to the Regulations.

37. An Infringement Notice may be served on an alleged offender personally or by posting it to his or her last known address as ascertained at the time or immediately following the occurrence giving rise to the allegation of the offence, or as recorded by the Council pursuant to the Act.

38. Where a person who has received an Infringement Notice fails to pay the prescribed penalty within the time specified in the Notice, or within such time as may in any particular case be allowed, he is deemed to have declined to have the alleged offence dealt with by way of a modified penalty.

39. An alleged offender on whom an Infringement Notice has been served may, within the time specified in that Notice, or make an application to have the matter dealt with in accordance with the provisions of the Regulations.

40. An Infringement Notice may, whether or not the prescribed penalty has been paid, be withdrawn by sending a Notice in the prescribed form to the alleged offender at the address specified in the Notice or his last known place of residence or business.

41. The Form of Withdrawal of an Infringement Notices issued under this Local Law shall be in the form contained in the First Schedule to the Regulations.

42. An Authorised Person may at any time enter occupied or unoccupied premises within the District in connection with the enforcement and administration of this Local Law PROVIDED THAT no occupied premises shall be entered without the occupier having first been given 24 hours notice in writing by the Chief Executive Officer.

FIRST SCHEDULE

Premises having a land area of:	Maximum number of dogs permitted
Less than 10,000 square metres	2
10,000 square metres but less than 20,000 square metres	3
20,000 square metres or greater	4

SECOND SCHEDULE

Shire of Mundaring
Dog Exercise Areas

The following sites are designated dog exercise areas within the district of the Shire of Mundaring—

- (a) All vacant land owned by the Shire of Mundaring.
- (b) All vacant reserves owned by the Shire of Mundaring, or under the care management and control of the Shire

THIRD SCHEDULE

Shire of Mundaring

Application for Kennel Establishment Licence

I/We
(Full Name)

of
(Postal Address)

hereby apply for the registration of a dog kennel establishment at

.....
(Property Address)

Number of dogs to be kept..... Breed of dogs:

Attached hereto—

- (a) Two (2) copies of a plan showing the details and specifications of all kennels appurtenant thereto and showing the distance from the said kennels and yards to the boundaries of the land, the subject of the application, and all buildings on the land.
- (b) I tender herewith the fee of \$

I/We hereby declare:

- 1. That all the above details are correct to the best of my/our knowledge; and
- 2. That I/we are the registered proprietors of the land the subject of this application.

I/We acknowledge:

- (i) That an Authorised person may at any time inspect the premises the subject of this application.
- (ii) That I/we will be required by Council to advertise the application in a manner determined by Council, at my/our cost.
- (iii) That this application shall be subject to Planning approval.

DATED this day of 1997

.....
Signature of applicant(s)

FOURTH SCHEDULE

Shire of Mundaring

Kennel Establishment Licence

The premises listed hereunder are hereby licensed as an approved kennel establishment in the name of the person licensed subject to the conditions set out hereunder.

LICENSED PREMISES:

LICENSEE:

DOG BREED:

NUMBER OF DOGS PERMITTED:

This licence shall unless revoked by Council, remain in force on 31 October next.

DATED this day of 1997

Authorised Person
Shire of Mundaring

This licence is subject to the following conditions:

FIFTH SCHEDULE

Shire of Mundaring

Application for Renewal of Kennel Establishment Licence

I/We (Full Name)

of (Postal Address)

hereby apply for the renewal of the registration of a Kennel Establishment at (Property Address)

for (Breed and Number of Dogs)

I/We hereby tender the prescribed amount

DATED this day of 1997

Signature of Applicant

SIXTH SCHEDULE

Shire of Mundaring

Application to Keep More Than Two Dogs

I/We (Full Name)

of (Postal Address)

hereby make application to keep more than two(2) dogs in accordance with Section 26 (1) of the Dog Act 1976 at (Property Address)

..... SIZE OF PROPERTY.....
for (give details of all dogs proposed to be kept on the afore-mentioned premises)—

Table with 5 columns: Breed, Sex, Colour, Name, Age. Rows 1-6.

It is necessary for me to keep more than two (2) dogs because:

.....

.....

.....

.....

Date:

.....

Signature of Applicant(s)

SEVENTH SCHEDULE
Shire of Mundaring
 Modified Penalties

Item	Section	Nature of Offence	Penalty
1.	33	Permitting a dog to enter or be in a prohibited place	\$100.00
2.	34	Permitting a dog to excrete on a street, public place or other land, and failing to remove and dispose of it	50.00
3.	18(a)	Failing to provide means for effectively confining a dog.	50.00
4.	27(r)	Failing to dispose of all refuse, faeces and food waste in an approved manner.	50.00
5.	27(s)	Failing to take all practical measures for the destruction of flies, fleas and other vermin.	50.00
6.	13(a)	Attempt to, or cause the unauthorised release of a dog.	50.00
7.	13(b)	Interfere or render not dog proof any pound.	50.00
8.	13(c)	Interfere with any vehicle, cage, trailer or any container used for holding or conveying dogs.	50.00

The Common Seal of the Shire of Mundaring was hereunto affixed by authority of a Resolution of the Council in the presence of—

J. H. ELLERY, President.
 M. N. WILLIAMS, Chief Executive Officer.

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