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LOCAL GOVERNMENT ACT 1995

SHIRE OF DARDANUP

**LOCAL LAW RELATING TO
DOGS**

LOCAL GOVERNMENT ACT 1995**SHIRE OF DARDANUP****LOCAL LAW RELATING TO DOGS**

In pursuance of the powers conferred upon it by the abovementioned Act and of all other powers enabling it, the Council of the Local Government of the Shire of Dardanup hereby records having resolved on the 12th of June 1998 to make the following Local Law relating to Dogs.

PART I—PRELIMINARY**Citation**

1. This Local Law shall be cited as the Shire of Dardanup Local Law Relating to Dogs.

Arrangement

2. This Local Law is divided into parts as follows—
PART I—PRELIMINARY
PART II—DELEGATED AUTHORITY
PART III—IMPOUNDING DOGS
PART IV—KEEPING OF DOGS
PART V—REGULATION OF DOG KENNELS
PART VI—GENERAL SCHEDULES

Definitions

3. In these Local Laws unless the context otherwise requires—
“Act” means the Dog Act 1976 as amended;
“Authorised Person” means a Ranger or any person who is Authorised by Council to administer and enforce the provision of these local-laws;
“CEO” means the Chief Executive Officer of the Shire of Dardanup;
“Council” means the Council of the Shire of Dardanup;
“District” means the district of the Shire of Dardanup;
“Persons liable for the control of a dog” means each of the following—
 - (a) the registered owner of the dog;
 - (b) the owner of the dog;
 - (c) the occupier of any premises where the dog is ordinarily kept or ordinarily permitted to live;
 - (d) a person who has the dog in his possession or under his control
“Premises” shall, for the purpose of determining who is the occupier, be taken to refer to any land or building, or part of any land or building, that is or is intended to be occupied as a separate residence from any adjacent tenement;
“Public place” means any place to which the public have access;
“Public buildings” means each of the following—
 - (a) churches;
 - (b) cinemas;
 - (c) community centres;
 - (d) hotel entertainment areas;
 - (e) licensed premises;
 - (f) public swimming pools;
 - (g) schools;
“Regulations” means the Dog Act Regulation 1976;
“Townsite” means that portion of land delineated and gazetted as a townsite under the Land Act 1933 by the Department of Lands and Survey for each respective townsite within the Shire of Dardanup;

All other words and expressions have the same meaning as they have in the Act.

PART II—DELEGATED AUTHORITY

4. Council may by resolution passed by an absolute majority, delegate to the “CEO” as defined in this local law, the performance of any function of the Council in relation to this Local Law.

In this Local Law a reference to the Council having powers to do something at its discretion or a reference to the Council forming an opinion prior to the doing of anything shall be deemed to include a reference to any employee of the Local Government to whom the "CEO" has delegated the exercise of any of the "CEO" powers or the discharge of any of the "CEO's" duties in relation to this local Law.

PART III—IMPOUNDING OF DOGS

5. The Council may establish and maintain a pound or pounds for the impounding of dogs seized pursuant to the provision of the Dog Act 1976 as amended. The pound to be used by the Shire of Dardanup is established on;—

Part Lot 34 Ferguson Road, Dardanup

6. Where a dog has been seized or placed in a pound the keeper of the pound or any other employee authorised by the Council shall, if the owner or person usually in charge of the dog is known, forthwith notify such person that the dog has been impounded.

7. The pound keeper or other employee authorised by the Council shall be in attendance at the pound for the release of dogs at such times and on such days of the week as shall from time to time be determined by the pound keeper or other employee Authorised by the Council.

8. Any person applying for the release of a dog seized or impounded shall prove to the satisfaction of an authorised person the ownership of the dog and their authority to take delivery of it. An Authorised person may accept such proof as he/she considers satisfactory and no person shall have any right of action against him/her or Council in respect of delivery of a dog in good faith.

9. If the owner or person apparently acting on behalf of the owner of a dog seized or impounded claims such dog then the dog shall be released to that person upon payment of the fees specified in the First Schedule hereto together with any veterinary fees which may be have been incurred by Council in relation to treatment of the dog.

10. If a dog shall not be claimed and said fees paid within 72 hours of its being impounded, or if a dog having a collar around its neck with a registration tag affixed thereto shall not be claimed and the said fees paid within 72 hours of the service of a notice upon the owner, the pound keeper or other employee Authorised by the Council may sell, destroy or otherwise dispose of the dog.

11. Upon the sale of a dog the proceeds of sale shall be the property of the Council and may be disposed of in such manner as the Council thinks fit. The owner of a dog sold pursuant to this Local law shall have no claim against the Council in respect of the proceeds thereof.

12. Notwithstanding anything herein contained, but subject to the provision of sub-section (12) of section 29 of the Dog Act 1976 as amended, any dogs seized or impounded may at any time be destroyed up the written authority of a registered veterinary surgeon, medical practitioner, or environmental health officer.

13. If the Council destroys or causes the destruction of a dog whether at the request of its owner or not and whether the dog shall have been seized or detained or not, the owner shall pay to the Council when so required, the fees as determined by Council from time to time.

14. No person shall—

- (a) unless a pound keeper or other employee of the Council duly Authorised in that regard, release or attempt to release a dog from a pound;
- (b) destroy, break into, damage or in any way interfere with or render not dog proof any 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.

15. The payment of fees in respect of the seizure, care, detention or destruction of a dog shall not relieve the owner of liability to a penalty under any of the provisions of the Dog Act 1976 or this Local Law.

PART IV—KEEPING OF DOGS

16. The owner or occupier of any premises within the District shall not keep, permit or suffer to remain thereon more than two dogs over the age of three months unless such premises are situated within that area of the district where kennels are permitted under the Shire of Dardanup Town Planning Scheme as amended and unless such premises are licensed as an approved kennel establishment.

17. A person wishing to keep more than two dogs but not more than six dogs on any premises may seek, upon application to Council, exemption for those provisions under section 26(3) of the Act.

18. The owner or occupier of premises within the Shire of Dardanup on which a dog is kept shall cause the portion of those premises on which the dog is kept to be fenced in a manner capable of confining the dog to the portion and in accordance with the provision of this local law. Any owner or occupier failing to comply with this requirement commits an offence.

- (a) The fence used to confine a dog and every part of the fence shall be of a type, height and construction which, having regard to the species, age, size and physical condition of the dog prevents the dog from passing over, under around or through the fence.
- (b) If there is a gate in the fence, the gate shall be kept closed at all times except when the dog is not kept on the premises, but nothing in this local law prevents a person from opening the gate, in order to enter or leave the premises.

19. There the owner or occupier of any premises wishes to keep more than two dogs on the premises at any one time and has not been granted an exemption pursuant to Section 26(3) of the Dog Act and this Local Law, that person may apply to the Council in the form of the Second Schedule for a license to establish an approved kennel establishment on such premise.

PART V—REGULATION OF DOG KENNELS

- 20.** A license to keep an approved kennel establishment may not be granted by the Council until—
- (a) 14 days notice of intention to establish a kennel on the premises has been given by the applicant in a newspaper circulating in the district;
 - (b) The Council has considered any written submissions and objections to the establishment or maintenance of a kennel on the premises;
 - (c) The Council has sought and considered submissions from the owners of properties, which in its opinion are most likely to be affected by the proposal to establish an approved kennel establishment.
- 21.** The advertisement required in Section 20(a) shall specify that any submission to Council regarding the application for the establishment of a kennel are to be lodged with the Council within fourteen (14) days from the date of the advertisement.
- 22.** The Council may grant or refuse a license for an approved kennel establishment and if a license is granted the Council may impose such conditions as it thinks fit. The license shall be in the form of the Third Schedule.
- 23.** The registration of a kennel establishment shall remain valid until the 31st October next following the issue thereof, unless it shall have been previously revoked, and shall be subject to annual review before renewal.
- 24.** All applications for the renewal of the registration of dog kennels shall be made in the Form of the Fourth Schedule to the Council during the month of October in each year.
- 25.** A person who commits a breach of any of the terms or conditions of the license for an approved kennel establishment commits an offence.
- 26.** Any person who has been granted a kennel license or who has made application for such a license shall ensure that the kennel establishment complies with the following conditions—
- (a) Each kennel shall have a yard attached thereto;
 - (b) Each kennel and each yard and every part thereof shall not be erected closer to the boundary of a lot than the following distance—
 - (i) from frontage to roads thirty (30) metres;
 - (ii) from all other boundaries twenty (20) metres
 - (c) Each kennel and each yard and every part thereof shall be at a distance not less than ten (10) metres from any dwelling;
 - (d) Each kennel and each yard and every part thereof shall be at a distance of not less than fifty (50) metres from any church, school room, hall, factory, dairy or premises whatsoever wherein food is manufactured, prepared, packed or stored for human consumption;
 - (e) Notwithstanding the provisions of this Section paragraphs (b), (c) and (d) the Council may permit a reduction of a kennel set-back if it is shown to the satisfaction of Council that for reasons of topography or lot configuration the prescribed set-back cannot be adhered to or would be unnecessarily disadvantageous;
 - (f) Each yard for any 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:—
 - (i) Dogs up to 30cm at the shoulders—1.5sq.m
 - (ii) Dogs over 30cm at the shoulders—2.5sq.m
 - (i) The minimum size of any yard shall not be less than twice the area of the kennel or group of kennels;
 - (j) Where a yard is to be floored, the floor shall be constructed in the same manner as the floor or any kennel;
 - (k) The upper surface of a kennel floor shall be at least 10cm 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 which shall be properly laid, ventilated and trapped in accordance with the health requirements of the Council;
 - (l) The walls of each kennel shall be constructed of concrete, brick, stone or framing sheeted internally and externally with good quality new zinalume or new pre-finished colour coated steel sheeting or new fibrous cement sheeting;
 - (m) The lowest internal height of any kennel shall be two (2) metres from the floor.
 - (n) The roof of each kennel shall be constructed of approved impervious material;
 - (o) All external surfaces of each kennel shall be kept in good condition and shall if directed by an Authorised Officer of 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 when so requested by an Authorised Officer of 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 license 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 must be effectively controlled.
- 27.** No kennel shall be erected until plans and specifications together with location plan showing the proposed site for the kennel and yard attached thereto have been approved by the Council.
- 28.** A kennel licence shall not be granted by Council before ensuring that a person in charge of the dogs either resides on the premises where the kennel is established, or within reasonable close proximity so as to enable that person to have effective control over the dogs.
- 29.** The approved kennel establishment is solely registered to the owner or occupier of the land as specified in the approved application for the kennel establishment licence and is deemed null and void in the event of a change in the owner or occupier of the land on which the kennel establishment is located.

PART VI—GENERAL

- 30.** The owner or person liable for the control of a dog shall prevent that dog from entering or being in any of the following places—
- a) A public building;
 - b) A food shop or other public business premises;
 - c) Any part of a reserve enclosed as a children's playground;
 - d) An operational building, construction or demolition site;

This Local Law shall not apply to dogs used by the blind or partially blind, deaf or partially deaf people or trainers who are bona fide engaged in the training of guide and hearing dogs.

31. Any person liable for the control of a dog as defined in Section 3(1) of the Act, who permits, or fails to prevent, that dog from excreting on any street or other public place or public reserve or on any other land within the district without the consent of the owner or occupier commits an offence unless the excreta is removed forthwith and disposed of either on private land with the consent of the owner or occupier or in such other manner as the Council may approve.

32. Any person who contravenes or fails to comply with any provision of these Local Laws commits an offence and shall upon conviction be liable to a penalty not exceeding \$5000.00.

33. The land Specified in the First Schedule of his Local Law is designated as a dog exercise area for the purpose of the Dog Act 1976.

34. The offences prescribed in the Fifth Schedule are prescribed 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.

35. a) Where an Authorised person has reason to believe that a person has committed an offence against this Local Law as prescribed in Section 35 he may serve upon that person an Infringement Notice and the Infringement Notice issued under these Local Laws shall be in the form depicted in Form 2 of Schedule 1 of the Local Government (Functions and General) Regulations 1996.

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

c) Where a person who 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.

d) An alleged offence on whom an Infringement notice has been served may within the time specified in that notice or such further time as may in any particular case be allowed, send or deliver to the Council the amount of the prescribed penalty, with or without a reply as to the circumstances giving rise to the allegation, and the Council may thereupon issue an acknowledgement accordingly.

e) An infringement Notice may, whether or not the prescribed penalty been paid be withdrawn by the Council by sending a notice in the prescribed form to the alleged offender at the address specified in the notice or the offenders last known place of residence or business.

f) The Prescribed form of Withdrawal of Infringement Notice issued under this Local Law shall be in the form depicted in Form 3 of Schedule 1 of the Local Government (Functions and General) Regulations 1996.

First Schedule

Shire of Dardanup

DOG EXERCISE AREAS

The following sites are designated as dog exercise areas within the district.

EATON

Pratt Road, Reserve 24359. From the prolongation of Graham Street, Northwest to the Collie River Bridge. Between the hours of 5.00am to 10.00am.

Pratt Road, Part of Reserve 25417. From the prolongation of Hands Avenue, North east to the end of the reserve.

DARDANUP
 Recreation Ground, lot 55 Ferguson Road
 BUREKUP
 Recreation Ground, Lot 2, Russell Road.

Second Schedule

Shire of Dardanup

APPLICATION FOR KENNEL ESTABLISHMENT LICENCE

I/we (full name)

Of (postal address)

Hereby apply for the registration of a kennel establishment at (property address)

Number of dogs to be kept Breed(s) of dogs

Attached hereto—

- (i) 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 said land;
- (ii) Evidence that notice of the proposed use of the land has been given in writing to the owners and occupiers of all adjoining land and premises;
- (iii) I tender herewith the Fee of \$.....

I hereby declare that all the above details are correct to the best of my knowledge and that I have no objection to an Authorised Person inspecting the premises at a reasonable time to ensure compliance with Council's local laws.

Dated this.....day of.....19.....

Should you be aggrieved by this decision, you are advised of your right to appeal to—

- (a) *the Local Court, in the case of an application to establish a kennel (Sect 27(7))
- (b) *the Minister for Local Government in the case of an applicant to keep more than two dogs (Sect 26(5). Dog Act 1976
 (strike out that which is not applicable)

Signature of Authorised Officer Date

Third Schedule

Shire of Dardanup

KENNEL ESTABLISHMENT LICENCE

Dog kennels situated on the premises at
 are hereby registered with the Shire of Dardanup.

Name of occupier

Number of dogs

Breed(s) of dogs

A license is hereby granted to the abovementioned occupier to operate a Kennel Establishment at the said premises for the said breeds and number of dogs.

The conditions of this Licence are as set out hereunder—

This registration and license shall, unless previously revoked, remain in force until the 31st day of October next. Applications for renewal must be made to the Council during the month of October.

Buildings and yards not complying with Council local Laws relating to Dogs are not covered by this License.

Dated this.....day of.....19.....

Signature of Authorised Officer.....

Fourth Schedule

Shire of Dardanup

RENEWAL OF KENNEL ESTABLISHMENT LICENSE

I/We (full name)

Of (postal address)

Hereby apply for the renewal of the registration of a kennel establishment at

(property address)

For (breed(s) and number of dogs)
 I tender herewith the fee of \$.....
 Dated this.....day of19.....
 Signature.....

Fifth Schedule
Shire of Dardanup
MODIFIED PENALTIES

Item	Section Penalty	Nature of Offence	Penalty
1	14[a]	Attempting to or causing the unauthorised release of a dog from a pound	\$100
2	14[c]	Interfering with any pound or any vehicle used for the purpose of catching, holding or conveying dogs	\$100
3	18[a]	Failing to provide means for effectively confining the dog	\$50
4	26[s]	Failing to dispose of all refuse, faeces, and food waste from a kennel establishment daily in an approved manner	\$50
5	26[s]	Failing to take all practical measures for the destruction of fleas, flies and vermin	\$50
6	30	Permitting a dog to enter or be in a prohibited place	\$100
7	31	Permitting a dog to excrete on a street or other public place or public reserve or on other land and failing to remove and dispose of such excreta in an approved manner on private land with the consent of the occupier of the land	\$50

Dated the 12th day of June 1998.

The Common Seal of the Shire of Dardanup was hereto affixed by the Authority of the Council in the presence of:—

MICHEAL T. BENNETT, President.
 MARK L. CHESTER, Chief Executive Officer.

