



Shire of Mt Marshall



LOCAL LAW RELATING TO DOGS

LOCAL GOVERNMENT ACT 1995

LOCAL LAW RELATING TO DOGS

In pursuance of the powers conferred upon it by the above-mentioned Act and of all other powers enabling it the Council of the Shire of Mt Marshall hereby records having resolved on **20 October 1998** to make the following local law.



PART 1 – PRELIMINARY

1. CITATION

This local law may be cited as the Shire of Mt Marshall 'Local Law Relating to Dogs'.

2. COMMENCEMENT

This local law comes into effect thirty (30) days after the date of its publication in the *Government Gazette*.

3. CONTENT AND INTENT

This local law provides for rules and guidelines for the proper management and control of dogs and for the management and control of kennel establishments and shall apply throughout the whole of the district.

4. INTERPRETATION

1) In this local law unless the context otherwise requires –

"Act" means the Dog Act, 1976.

"authorised person" means the Chief Executive Officer, Deputy Chief Executive Officer, Ranger or any other person employed by the local government as an authorised person for the purpose of this local law.

"clause" means a clause of this local law.

"district" means the local government district of the Shire of Mt Marshall.

"dog exercise area" means those areas designated by this local law pursuant to section 51 of the Act.

"fence" includes a wall and retaining wall.

"food premises" has the meaning given to it in the Health Act 1911.

"local government" means the local government of the Shire of Mt Marshall.

"person liable for the control of the dog" has the meaning given to it in the Act.

"premises" has the meaning given to it in the Act.

"public buildings" includes each of the following:

- a) Churches;
- b) Community, sporting and recreation centres and public swimming pools;
- c) Premises licensed under the Liquor Licensing Act 1988; and
- d) Public and private places of education.

"rural area" means an area classified as a rural or special rural zone by Shire of Mt Marshall Town Planning Scheme No 2 published in the **Government Gazette of the 14th June 1996** and amended or replaced from time to time.

"Schedule" means a schedule to these local laws.

2) Unless otherwise defined herein, the terms and expressions used in this local law shall have the same meaning given to them in the Act.

PART 2 – IMPOUNDING AND RELEASING OF DOGS

5. OWNER TO PROVIDE EVIDENCE

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.

6. FEES AND CHARGES TO BE PAID PRIOR TO RELEASE

The charges in relation to the seizure and impounding of a dog and maintenance thereof in a pound payable under Section 29(4) of the Act are as determined by the local government from time to time.

- a) The release of dogs shall be at the time and on the days of the week as an authorised person determines from time to time.
- b) In the absence of a pound keeper a claim for a dog seized or impounded may be made to an authorised person.
- c) An additional fee determined by the local government from time to time is payable where arrangements are made for the release of a dog at a time or on a day other than those determined by an authorised person.

7. OWNERS TO BE NOTIFIED

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.

8. DOGS MAY BE DESTROYED

- 1) If a dog with or 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 or destroy the dog.
- 2) 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.
- 3) 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 local government any fees prescribed by the local government.

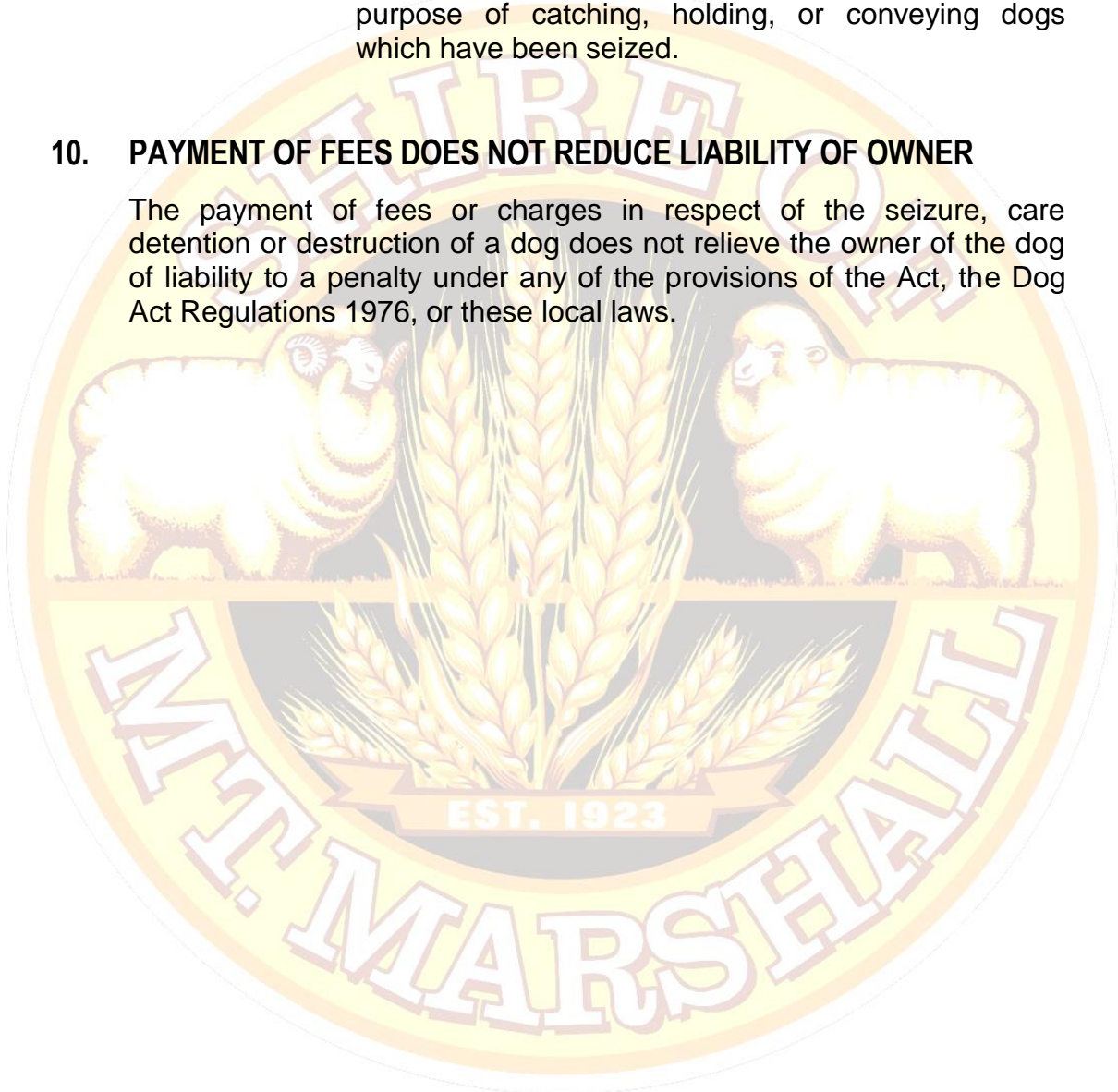
9. LOCAL GOVERNMENT PROPERTY NOT TO BE INTERFERED WITH

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.

10. PAYMENT OF FEES DOES NOT REDUCE LIABILITY OF OWNER

The payment of fees or charges in respect of the seizure, care detention or destruction of a dog does not relieve the owner of the dog of liability to a penalty under any of the provisions of the Act, the Dog Act Regulations 1976, or these local laws.



PART 3 – KEEPING OF DOGS

11. MAXIMUM NUMBER OF DOGS TO BE KEPT

The occupier of premises shall not unless the premises are licensed as an approved kennel establishment or have been granted exemption pursuant to Section 26(3) of the Act keep or permit to be kept on those premises more than –

- a) two dogs over the age of three months and the young of those dogs under that age if the premises are situated elsewhere than in a rural area;
- b) six dogs over the age of three months and the young of those dogs under that age if the premises are situated within a rural area.

12. CONDITION OF KEEPING DOGS

The occupier of premises on which a dog is kept shall:

- a) cause the premises or portion thereof on which the dog is kept to be fenced in a manner capable of confining the dog;
- b) ensure the fence used to confine a 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 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 and is fitted with a proper latch or other means of fastening it;
- d) maintain the fence and all gates and doors in good order and condition;
- 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 for effectively confining the dog within the building on the premises. This does not include tethering the dog within the premises.

13. DOG KENNELS

- 1) An application for a license to keep an approved kennel establishment shall be in writing and shall be in or substantially in the form contained in the First Schedule and shall be supported by evidence that due notice of the proposed use of the land has been given to persons in the locality.
- 2) Unless the local government otherwise decides, an applicant for a license shall give notice of the proposed use of the land by
 - a) Not less than one advertisement in a newspaper circulating in the district; and
 - b) Giving written notice to the owners and occupiers of all adjoining premises at least thirty days before the application is made to the local government.
- 3) The Local Government may specify the maximum number of dogs permitted to be kept in a kennel.
- 4) The fee payable for the issue of a license to keep an approved kennel establishment is that determined by the local government from time to time and may be varied according to the number of dogs kept at a premise.
- 5) A license to keep an approved kennel establishment shall be in or substantially in the form contained in the Second Schedule.
- 6) The fee payable for the renewal of a license to keep an approved kennel establishment is that determined by the local government from time to time.
- 7) A person shall not erect a kennel unless it complies with the provisions of these local laws and until plans and specifications and a location plan showing the proposed site for the kennel and of the yard appurtenant thereto have been approved by the local government and the fee for a license as determined by the local government has been paid.
- 8) A kennel for which an approved kennel establishment license has been granted, and which is to be constructed pursuant to these local laws, shall comply with the following specifications –
 - a) each kennel shall have a yard appurtenant thereto;
 - b) each kennel and each yard and every part thereof shall not be at any less distance than 30 metres from the boundaries of the land in occupation of the owner;
 - c) each kennel and each yard and every part thereof shall not be at any less distance than 30 metres from any road or street;
 - d) each kennel and each yard and every part thereof shall not be any less distance than 20 metres from any dwelling house, church, schoolroom, hall or factory;
 - e) the walls shall be rigid, impervious and structurally sound;
 - f) the roof shall be constructed of impervious material approved by the local government;

- g) the lowest internal height shall be at least 2 metres from the floor;
- h) each yard shall be securely fenced and kept securely fenced with a fence not less than 2 metres in height constructed of galvanised iron, wood, galvanised link mesh or netting;
- i) all gates shall be provided with proper catches or means of fastening;
- j) the upper surface of the floor of each kennel shall be set at least 100mm above the surface of the surrounding ground and shall be constructed of granolithic cement finished to a smooth surface, and shall have a fall of not less than 1 in 100; the entire yard shall be surrounded by a drain which shall be properly laid, ventilated and trapped; all floor washings shall pass through this drain and shall be disposed of in accordance with health requirements of the local government;
- k) the floor of a yard shall be constructed in the same manner as the floor of a kennel unless such kennel is on a rural property more than two kilometres from any town boundary.
- l) for each dog kept therein, every kennel shall have not less than 2m² of floor space and every yard not less than 2.5m²;

9) A person who keeps or permits dogs to be kept in an approved kennel establishment shall –

- a) keep dogs in kennels and yards appropriate to the breed or kind in question, sited and maintained in accordance with the requirements of public health and sufficiently secured;
- b) not permit any dog to escape from the kennel or yard in which it is kept nor wander at large except for the purpose of reasonable exercise whilst under the control of a person who has attained the age of eighteen years; and
- c) maintain all kennels and yards and all feeding and drinking vessels used by dogs therein in a clean condition and cleanse and disinfect them when required so to do by an authorised person.

14. RIGHT OF APPEAL

A right of appeal to a local court is conferred by Section 27 of the Act where the local government refuses the grant of a license or gives notice of intention to cancel a license.

PART 4 – GENERAL

15. PERSON TO CONTROL DOG

- 1) When in a public place, not gazetted as a dog exercise area, pursuant to this local law, a person liable for the control of the dog shall ensure that the dog is kept –
 - a) on a leash, chain, cord or harness by a person physically able to control the dog; and
 - b) under continuous supervision, by a person physically able to control the dog.
- 2) A person liable for the control of a dog, as defined in section 3(1) of the Act, shall prevent that dog from entering or being in any of the following places unless that person is blind or partially blind and is accompanied by a bona fide guide dog or is a guide dog trainer;
 - a) a public building;
 - b) food premises;
 - c) Beacon Public Cemetery (Reserve No 21724);
 - d) Bencubbin Public Cemetery (Reserve No 18428);
 - e) A place in which dogs are prohibited by any other written law operating within the district.

16. DOG EXERCISE AREAS

- 1) The public places or classes of public places referred to in subclause (2) are specified as dog exercise areas for the purpose of sections 31 and 32 of the Act and the public places or classes of public places referred to in subclause (3) are specifically excluded.
- 2) Subject to clause 15 and subclause (3) the following are designated as the dog exercise areas within the district –
 - a) Beacon Recreation Reserve No. 36172 (outside the fenced oval area) providing there are no organised activities upon this reserve.
 - b) Bencubbin Recreation Reserve No. 29824 (outside the fenced oval area) providing there are no organised activities upon this reserve.
- 3) The following reserves and other places are specifically excluded from the dog exercise areas within the district –
 - a) any public street or road reserve;
 - b) the Shire of Mt Marshall Administration Centre grounds.

17. DOG EXCREMENT

- 1) Fouling of Streets and Public Places
 - a. any person liable for the control of a dog as defined in Section 3(1) of the Act, who permits the dog to excrete on any street or public place or on any land within the District without the consent of the occupier commits an offence unless the excreta is removed forthwith and disposed of either on private land with the consent of the occupier or in such other manner as the local government may approve.

18. PENALTIES

- 1) A person who fails to comply with or contravenes any of the provisions of these local laws commits an offence and is liable to a maximum penalty of \$2000.
- 2) Where an offence is a continuing offence, whether of commission or omission, a person convicted of the continuing offence is liable to a maximum daily penalty of \$100 for every day that the offence continues after his initial conviction for the offence.

19. EXEMPTION

The requirements of clause 13 (7) shall not apply to any public pound facility constructed by the local government.

The Common Seal of the Shire of Mt Marshall was hereunto affixed by authority of a resolution of the Council in the presence of:

Cr PA Gillett,

President

Mrs E Haydon

Chief Executive Officer

FIRST SCHEDULE

Shire of Mt Marshall

APPLICATION FOR LICENSE OR RENEWAL OF LICENSE TO KEEP APPROVED KENNEL ESTABLISHMENT

Pursuant to the Dog Act, 1976, and the local laws of the Shire of Mt Marshall made thereunder:

I/We (full name) _____

Of _____

hereby apply for a license/the renewal of a license (strike out whichever is not applicable) to keep an approved kennel establishment at:

Lot _____ Street _____

Locality _____

Attached hereto are:

- a) A plan of the premises showing the location of the kennels and yards and all other building, structures and fences;
- b) plans and specifications of the kennels;
- c) evidence that due notice of the proposed use of the premises has been given to persons in the locality;
- d) a remittance for the fee of \$ _____

The kennel establishment will be used for breeding/boarding domestic pets (strike out whichever is not applicable).

The maximum number of dogs over the age of three months that will be kept there at any one time will be _____

Where to be used for breeding, the breed of dogs will be _____ and the maximum number of pups that will be kept on the premises at any one time will be _____

Dated the _____ day of _____ 20 _____

.....
Signature of Applicant

LOCAL LAW RELATING TO DOGS

Note: Items (a), (b) and (c) may be struck out if the application is for the renewal of a license and if no change has been made since the previous application.



SECOND SCHEDULE

Shire of Mt Marshall
LICENSE TO KEEP AN APPROVED KENNEL ESTABLISHMENT

I/We (full name)

is/are the holder(s) of a license to keep an approved kennel establishment at:

The maximum number of dogs over the age of 3 months permitted under this license is _____

This license has effect for a period of 12 months from the date hereof.

Dated the _____ day of _____ 20____

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Chief Executive Officer