

**DOG ACT 1976  
LOCAL GOVERNMENT ACT 1995**

SHIRE OF PEPPERMINT GROVE

**DOGS LOCAL LAW 2021**

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 Peppermint Grove resolved on 23 February 2021 to make the following local law.

**PART 1—PRELIMINARY**

**1.1 Citation**

This local law may be cited as the *Shire of Peppermint Grove 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.

**1.4 Repeal**

The *Shire of Peppermint Grove Dogs Local Law* published in the *Government Gazette* on 18 September 2001 is repealed.

**1.5 Interpretation**

In this local law unless the context otherwise requires—

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

**assistance animal** means an animal referred to in section 9 (Disability discrimination—guide dogs, hearing assistance dogs and trained animals) of the *Disability Discrimination Act 1992* (Cth);

**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 in the Act;

**district** means the district of the local government;

**dog** has the meaning given to it in the Act;

**local government** means the Shire of Peppermint Grove;

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

**public place** has the meaning given to it in the Act;

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

**Schedule** means a schedule in this local law; and

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

**PART 2—IMPOUNDING OF DOGS**

**2.1 Charges and costs**

(1) The following are to be imposed and determined by the local government under sections 6.16 to 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.

(2) The payment of fees in respect to the seizure, care, detention or destruction of a dog shall not relieve the owner of liability to a penalty under the Act, Regulations or this local law.

**2.2 Attendance of pound keeper at pound**

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.

### **2.3 Release of impounded dog**

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 or authorised person.

## **PART 3—KEEPING OF DOGS**

### **3.1 Dogs to be confined**

(1) In this Part—

**fence** means any boundary structure, wall, door, gate, window, or physical barrier used to confine the dog within the premises where the dog is being kept, and may also include an electronic boundary fence and collar system that is—

- (a) installed as per the manufacturers recommendations;
- (b) the dog is trained in wearing the collar as per the manufacturers recommendations;
- (c) the fence and wire is properly maintained; and
- (d) the collar and unit is operating and working correctly.

(2) 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 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 the dog remains confined) and is fitted with a proper latch or other means of fastening it;
- (c) ensure the dog cannot be removed or released from the premises without the permission of the occupier of the property;
- (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.

(3) Notwithstanding subclauses (1) and (2), the confinement of dangerous dogs is dealt with in the Act and Regulations.

### **3.2 Limitation on the number of dogs**

(1) 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.

(2) 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.

### **3.3 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 4—ENFORCEMENT**

### **4.1 Interpretation**

In this Part—

**infringement notice** means the notice referred to in clause 4.4;

**notice of withdrawal** means the notice referred to in clause 4.7(1); and

**penalty unit** has the meaning given to it in the *Shire of Peppermint Grove Penalty Units Local Law 2021*.

### **4.2 Offences and general penalty**

(1) Any 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.

(2) Unless otherwise specified, any 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 a further penalty not exceeding a fine of \$500 in respect of each day or part of a day during which the offence has continued.

### **4.3 Modified penalties**

(1) An offence against a clause specified in Schedule 1 is an offence in relation to which a modified penalty may be imposed.

(2) The amount appearing in the third column of Schedule 1 directly opposite an offence is the modified penalty payable in respect of that offence.

(3) If this local law expresses a modified penalty as a number of penalty units, the monetary value of the modified penalty is the number of dollars obtained by multiplying the value of the penalty units.

#### **4.4 Issue of infringement notice**

(1) 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, the authorised person may serve on the alleged offender a notice in the form of Form 8 in Schedule 1 of the Regulations informing the alleged offender that, if he or she does not wish to be prosecuted in court for the alleged offence, he or she may pay to the local government within the time specified in the notice, the amount prescribed as the modified penalty.

(2) An infringement notice may be served on an alleged offender personally, or by leaving it at or posting it to her or his address as ascertained from the alleged offender, at the time of or immediately following the occurrence giving rise to the allegation of the offence, or as recorded by the local government under the Act.

#### **4.5 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.

#### **4.6 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.

#### **4.7 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 4.4 cannot sign or send a notice of withdrawal.

#### **4.8 Service**

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.

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### **SCHEDULE 1—OFFENCES IN RESPECT OF WHICH MODIFIED PENALTY APPLIES**

(clause 4.3)

<b>Offence</b>	<b>Nature of offence</b>	<b>Modified penalty units</b>
3.1	Failing to provide means for effectively confining a dog	20
3.3(2)	Failing to remove dog excreta from a public place	20

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Dated 9th March 2021.

The Common Seal of the Shire of Peppermint Grove was affixed by authority of a resolution of the Council in the presence of:

Cr RACHEL THOMAS, President.  
DON BURNETT, Chief Executive Officer.

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