

Mornington Shire Council Subordinate Local Law No. 2 (Animal Management) 2016

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Part 1 Preliminary

1 Short title

This subordinate local law may be cited as *Subordinate Local Law No. 2 (Animal Management) 2016*.

2 Purpose and how it is to be achieved

The purpose of this subordinate local law is to supplement *Local Law No. 2 (Animal Management) 2016*, which regulates the keeping and control of animals within the local government area.

3 Authorising local law

The making of the provisions in this subordinate local law is authorised by *Local Law No. 2 (Animal Management) 2016* (the **authorising local law**).

4 Definitions

- (1) Particular words used in this subordinate local law have—
 - (a) the same meaning as provided for in the authorising local law; or
 - (b) the definition in the dictionary in Schedule 1.

Part 2 Keeping of animals

5 Circumstances in which keeping animals prohibited—Authorising local law, s 5(1)

For section 5(1) of the authorising local law, keeping an animal or animals mentioned in column 1 of Schedule 2 is prohibited in the circumstances described in column 2 of Schedule 2.

6 Circumstances in which keeping animals requires approval—Authorising local law, s 6(1)

For section 6(1) of the authorising local law, keeping an animal or animals of the species or breed mentioned in column 1 of schedule 3 requires approval in the circumstances described in column 2 of schedule 3.

7 Animals that must be desexed—Authorising local law, s 7(1)

For section 7(1) of the authorising local law, an animal of the species or breed mentioned in column 1 of Schedule 4 must be desexed once it reaches the age specified in column 2 of Schedule 4, except in the circumstances described in column 3 of Schedule 4.

8 Minimum standards for keeping animals—Authorising local law, s 8(1)

- (1) For section 8(1) of the authorising local law, the minimum standards for the keeping of animals generally are set out in schedule 5.
- (2) For section 8(2) of the authorising local law, column 2 of schedule 6 sets out the minimum standards for keeping an animal of the species or breed mentioned in column 1 of schedule 6.

9 Identification for cats and dogs in certain circumstances—Authorising local law, s 9

For section 9 of the authorising local law, the identification required for a cat or dog that is at a place other than the address stated in the registration notice for the cat or dog is the registration device mentioned in section 12(3) of the *Animal Management (Cats and Dogs) Act 2008*.

Part 3 Control of animals

10 Public places where animals are prohibited—Authorising local law, s 10(1)

For section 10(1) of the authorising local law, the species or breeds of animals mentioned in column 2 of schedule 7 are prohibited in the public places described in column 1 of schedule 7.

11 Dog off-leash areas—Authorising local law, s 11(1)

For section 11(1) of the authorising local law, the areas described in schedule 8 are designated as dog off-leash areas.

12 Animal faeces in public places—Authorising local law, s 13

For section 13 of the authorising local law, the following animals are prescribed as animals whose faeces must be removed from a public place and disposed of in a sanitary way—

Dogs

13 Requirements for proper enclosures for keeping animals—Authorising local law, s 14(2)

For section 14(2) of the authorising local law, column 2 of schedule 9 sets out the requirements for proper enclosures for an animal of the species or breed mentioned in column 1 of schedule 9.

14 Criteria for declared dangerous animals—Authorising local law, s 18(1)

For section 18(1) of the authorising local law, the criteria for declaring an animal as a declared dangerous animal are set out in schedule 10.

Part 4 Seizure, impounding or destruction of animals

15 Register of impounded animals—Authorising local law, s 32(3)

For section 32(3) of the authorising local law, the register of impounded animals will be kept at Morningson Shire Council, 2 Queen Street, Morningson, Queensland.

Part 5 Appeals against destruction orders

This part in the authorising local law does not contain any matters to be provided for by subordinate local law.

Part 6 Miscellaneous

16 Conditions regarding sale of animals—Authorising local law, s 41(1)

For the purposes of section 41(1) of the authorising local law, persons who offer for sale an animal of a species or breed mentioned in column 1 of schedule 11 must comply with the conditions set out in column 2 of schedule 11.

Part 7 Dictionary

17 Animals excluded from application of the local law—Authorising local law, schedule

For the purposes of the definition of “*animal*” in the schedule to the authorising local law, the following species of animal are excluded from the application of the authorising local law—

This section has been intentionally left blank.

18 Species that are declared dangerous animals—Authorising local law, schedule

For the purposes of the definition of “*declared dangerous animal*” in the schedule to the authorising local law, an animal of the following species is a declared dangerous animal—

This section has been intentionally left blank.

19 Prescribed period for reclaiming animals—Authorising local law, schedule

For the purposes of the definition of “*prescribed period*” in the schedule to the authorising local law, the period within which an animal may be reclaimed is—

3 business days.

Schedule 1 Dictionary

Section 4(1)(b)

assistance dog means a guide, hearing or assistance dog certified under the *Guide, Hearing and Assistance Dogs Act 2009*.

designated town area has the meaning in *Local Law No. 1 (Administration) 2016*.

domestic animals means a cat, dog, household pet or livestock animal that is fed and kept by a person.

multiple dwelling means premises which contains three or more dwellings where the use is primarily residential.

poultry includes any species of fowl, duck, goose, turkey or guinea fowl.

recognised breeder association means an association of animal breeders that is approved by the local government.

Schedule 2 Prohibition on keeping animals

Section 5

Paragraph	Column 1 Animal	Column 2 Circumstances in which keeping of animal or animals is prohibited
1.	Any animal	<p>1. Keeping an animal where the owner or responsible person for the animal has committed more than two offences against the authorising local law in any 12 month period in relation to the same species of animal.</p> <p>2. Keeping an animal on land if the animal makes a noise that constitutes a nuisance ("animal noise nuisance") in the reasonable opinion of an authorised person.</p> <p>An animal causes an animal noise nuisance if it makes a noise which—</p> <p>(a) occurs more than once; and</p> <p>(b) disrupts or inhibits the reasonable enjoyment of an activity ordinarily carried out on adjoining or nearby residential premises.</p> <p><i>Example—</i></p> <p>The barking of a dog which disrupts a person—</p> <ul style="list-style-type: none"> • holding a conversation; or • watching television; or • listening to a radio or recorded material; or • sleeping.
2.	Bees	In the designated town area.
3.	Caged birds (budgerigar, canary, finch, lovebirds, parrots and the like)	More than 10 birds in the designated town area.
4.	Cat	More than 2 cats over the age of 12 weeks in the designated town area.
5.	Cockatoo, galah, corella, cockatiel and the like	More than 10 birds in the designated town area.

6.	Dog	<ol style="list-style-type: none"> 1. More than 2 dogs (other than dogs used for hunting purposes) over the age of 12 weeks in the designated town area. 2. Any of the following breeds or a dog of mixed breed with at least one element of the following breeds anywhere in the local government area— <ol style="list-style-type: none"> (a) American pit bull terrier or pit bull terrier; (b) Dogo Argentino; (c) Filo Brasileiro; (d) Japanese tosa; (e) Perro de Presa Canario or Presa Canario; and (f) any other breed as may be determined by the local government by resolution, <p>unless the dog is registered with the local government and a restricted dog permit has been issued and is current under the <i>Animal Management (Cats & Dogs) Act 2008</i>.</p>
7.	Goats	In the designated town area.
8.	Guard/Security dog	More than 2 guard/security dogs over the age of 12 weeks at any one place in the designated town area.
9.	Livestock (horse, cattle, mule, donkey, buffalo, camel, deer, llama, alpaca and sheep)	In the designated town area.
10.	Poultry (Domestic hens, geese, turkey, ducks and the like) other than roosters	<ol style="list-style-type: none"> 1. More than 12 poultry in the designated town area.
11.	Pigeons	More than 6 pigeons in the designated town area.
12.	Pigs	In the designated town area.
13.	Rooster	More than 1 rooster in the designated town area.

Schedule 3 Requirement for approval to keep animal

Section 6

	Column 1 Species or breed of animal	Column 2 Circumstances in which keeping of animal or animals requires approval¹
1.	Dogs	More than 2 dogs used for hunting purposes in the designated town area.

¹ See *Local Law No.1 (Administration) 2016* and *Subordinate Local Law No.1 (Administration) 2016* in relation to the requirements and processes for approvals (e.g. form of application for approval, documents and materials that must accompany applications, criteria for granting approval, conditions that must be imposed on approvals, conditions that will ordinarily be imposed on approvals, term of approval, third party certification of applications).

Schedule 4 Requirement to desex animal

Section 7

	Column 1 Species or breed of animal	Column 2 Age at which animal must be desexed	Column 3 Exemptions to the requirement for desexing
1.	<i>Intentionally left blank</i>		

Schedule 5 Minimum standards for keeping animals generally

Section 8(1)

- (1) Waste waters from enclosures must be drained in a nuisance free manner or as otherwise directed by an authorised person so that run-off is kept off adjoining land.
- (2) Excreta, food scraps, and other material that is, or is likely to become, offensive must be collected at least once in each day and, if not immediately disposed of, be kept in a fly proof container of a kind approved by an authorised person.
- (3) Any enclosure in which the animal is kept must be in a clean and sanitary condition and free from dust and odour.
- (4) Any enclosure in which the animal is kept must be properly maintained in an aesthetically acceptable condition.
- (5) All reasonable steps must be taken to prevent the animals from making a noise or disturbance that causes a nuisance or disturbance to the occupiers of other land or premises.
- (6) The area available to the animal kept on the premises must be appropriately sized so that the animal can be effectively and comfortably kept.
- (7) Any animal food must be stored in an impervious fly proof and vermin proof receptacle or in an impervious fly proof and vermin proof storeroom facility and the receptacle or storeroom facility, as the case may be, must be maintained to the satisfaction of an authorised person.
- (8) All animals kept on the premises must be provided with and have access to adequate shelter, drinking water and appropriate food.
- (9) Any enclosure used for the purpose of keeping an animal must be thoroughly cleaned each week and effectively treated with an insecticide at least twice a year.
- (10) All reasonable directions given by an authorised person to ensure that the keeping of the animal does not result in nuisance to occupiers of other land or premises, must be complied with.
- (11) Any dead animals must be immediately disposed of so as not to cause a nuisance. The remains must not be disposed of on or in a public place.

Schedule 6 Minimum standards for keeping particular animals

Section 8(2)

	Column 1 Species or breed of animal	Column 2 Minimum standards for keeping animals
1.	Cats and dogs	The owner of the cat or dog must ensure that at all times the animal is wearing the registration device mentioned in section 12(3) of the <i>Animal Management (Cats and Dogs) Act 2008</i> .
2.	Birds (budgerigars, canaries, finch, lovebirds, parrots and the like)	<ol style="list-style-type: none"> 1. All seed and other food for the birds must be contained within a properly sealed and vermin proof container. 2. Cages and aviaries and enclosures must be thoroughly cleaned once per week.

Schedule 7 Prohibition of animals in public places

Section 10

	Column 1 Public place	Column 2 Species or breed of animals prohibited
1.	All local government controlled areas	<p>All animals with the following exceptions—</p> <ol style="list-style-type: none"> 1. dog/s under effective control except not in or within 15 metres of a designated children's playground, any playground equipment, barbeque, shelter or picnic table; or 2. animals training for or participating in an organised event and where approval has been granted by the local government or an authorised person.

Schedule 8 Dog off-leash areas

Section 11

Intentionally left blank.

Schedule 9 Requirements for proper enclosures for animals

Section 13

	Column 1 Species or breed of animal	Column 2 Requirements for proper enclosures
1.	All animals in the designated town area	<ol style="list-style-type: none"> 1. The enclosure must, to the reasonable satisfaction of an authorised person— <ol style="list-style-type: none"> (a) must be suitably fenced to contain the animal; and (b) must be of a size appropriate to the species and breed of the animal to be enclosed; and (c) may be constructed such that parts of a building or structure can form part of the enclosure in lieu of fencing, provided the building or structure does not have openings through which the animal can escape; and (d) must contain adequate shelter for all animals kept in the enclosure. 2. The enclosure's gates must be closed and latched except when in actual immediate use. 3. For the purpose of paragraph 1, "suitably fenced" means a fence constructed of strong materials and designed in such a way to the prevent the animal from— <ol style="list-style-type: none"> (a) escaping over, under, through or around the fence; and (b) protruding over, under, through or around the fence; and (c) threatening to attack a person or animal over, under, through or around the fence; and (d) attacking a person or animal over, under, through or around the fence 4. Keeping an animal on a leash does not constitute a proper enclosure.
2.	Caged birds (budgerigar, canary, finch, lovebirds, parrots and the like) in the designated town area	<p>The cages/enclosures must—</p> <ol style="list-style-type: none"> (a) not be sited closer than 2 metres from the property boundaries; and (b) not, in combination with all buildings on site, exceed 50% of the area of the allotment; and (c) be located at the rear of the premises behind the residence (if any) situated on the premises.
3.	Cockatoo, galah, corella and cockatiel and the like in the	<p>The cages/enclosures must—</p> <ol style="list-style-type: none"> (a) not be sited within 25 metres of any residence on adjoining premises; and

	designated town area	<ul style="list-style-type: none"> (b) must be sited at least 2 metres from the boundary of any adjoining premises; and (c) not, in combination with all buildings on the allotment, exceed 50% of the area of the allotment; and (d) be located at the rear of the premises behind the residence (if any) situated on the premises.
4.	Dogs(including hunting dogs) in the designated town area	<ol style="list-style-type: none"> 1. If the dog is a climber, the fence or enclosure must be constructed in such a way as to prevent the dog from climbing over the fence. 2. If the dog is a digger, a barrier must be installed directly below the fence or enclosure which is adequate to prevent the dog digging its way out.
5.	Domestic hens in the designated town area	<p>The enclosure must—</p> <ul style="list-style-type: none"> (a) be sited no closer than 2 metres from the property boundary; and (b) located at the rear of the premises behind the residence (if any) situated on the premises; and (c) be constructed to prevent any such bird from being within 10 metres of any dwelling (except any dwelling on the premises); and (d) be constructed to prevent any such bird from being within 10 metres of any premises used for the manufacture, preparation or storage of food for human consumption (other than a domestic kitchen used solely for domestic purposes by the owner or of responsible person for the birds).
6.	Guard/Security dogs in the designated town area	<ol style="list-style-type: none"> 1. The enclosure must— <ul style="list-style-type: none"> (a) be constructed to a standard approved by an authorised person; and (b) clearly display a warning sign, approved by an authorised person to the entrance to the property where a the guard/security dog is being kept. The sign must prominently and permanently display in lettering not less than 50 milometers in height on a background of a type and colour to ensure that the lettering is readily legible: <i>"Beware – Guard /Security dog (or dogs) on premises."</i> 2. The guard/security dog must be confined in a secure enclosure at all times when the public has access to the property where the dog is being kept.
7.	Geese, turkey, ducks and the like in the designated town area	<p>The enclosure must—</p> <ul style="list-style-type: none"> (a) be sited no closer than 2 metres from the property boundary; and (b) be constructed to prevent any such bird from being

		<p>within 10 metres of any dwelling (except any dwelling on the premises); and</p> <p>(c) be constructed to prevent any such bird from being within 10 metres of any dwelling (except any dwelling on the premises).</p>
8.	Pigeons in the designated town area	<ol style="list-style-type: none"> 1. The cage or aviary must not be sited closer than 2 metres from the property boundaries. 2. The enclosure must be constructed to prevent any such bird from being within 10 metres of any dwelling (except any dwelling on the premises). 3. All pigeons must be housed in purpose built facilities. 4. Where wooden floors are used, a clear air space not less than 400 millimetres between the ground level and the underside of the flooring timbers must be provided. 5. Where concrete floors are used, a concrete edge to the slab extending at least 600 millimetres into the ground must be provided. 6. Pigeon lofts are to have a maximum height of 2.5 metres above natural ground level. 7. An appropriate size of enclosure must be selected to house a maximum number of birds within the proposed loft. 8. The maximum number of birds per cubic metre of air space must not exceed 5. 9. Positioning of pigeon lofts must be such that the amenity of adjoining premises is preserved, with no inconvenience or nuisance resulting from this activity or from flying birds. 10. Appropriate landing boards must be provided to encourage the uninterrupted return of birds to the loft, aviary or cage.
9.	Rooster in the designated town area	<ol style="list-style-type: none"> 1. The enclosure must not be sited closer than 2 metres from the property boundaries 2. The enclosure must be constructed to prevent any such bird from going within 10 metres of any dwelling (except any dwelling on the premises). 3. The enclosure must also be constructed to prevent any such bird from going within 10 metres of any premises (other than a domestic kitchen used solely for domestic purposes by the owner of the birds) used for the manufacture, preparation or storage of food for human consumption.

Schedule 10 Criteria for declared dangerous animals

Section 14

The following criteria will be considered prior to the declaration of an animal, other than a dog, being declared dangerous—

- whether the animal has attacked a person;
- whether the animal has attacked another animal;
- whether the animal has caused fear of attack in a person;
- whether the animal has exhibited behaviour that, in the reasonable opinion of an authorised person, gives rise to concern that it is likely to either attack a person or animal or cause fear to a person.

Schedule 11 Conditions for sale of animals

Section 16

	Column 1 Species or breed of animal	Column 2 Conditions that must be complied with when offering animal for sale
1.	Cats and dogs	<p>1. The animal must be desexed if it is six (6) months of age or older, unless:</p> <ul style="list-style-type: none"> (a) with respect to dogs; <ul style="list-style-type: none"> (i) the transferee / purchaser of the animal is a member of a recognised breeders association for the purposes of breeding or showing dogs; or (ii) it is an assistance dog; or (b) with respect to cats, the transferee / purchaser is a member of a recognised breeders association for the purposes of breeding or showing cats.