

# LITCHFIELD COUNCIL RURAL DOG MANAGEMENT BY-LAWS

Subordinate Legislation No. 23 of 2010

# NORTHERN TERRITORY OF AUSTRALIA

As in force at 1<sup>st</sup> March 2011

## LITCHFIELD COUNCIL RURAL DOG MANAGEMENT BY-LAWS

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## LITCHFIELD COUNCIL RURAL DOG MANAGEMENT BY-LAWS

Regulations under the Local Government Act

### PART 1 PRELIMINARY

#### *PREAMBLE*

*These By-laws seek to inform the Litchfield Council Community of Council's regulatory powers concerning the keeping of dogs in the rural environment.*

*These By-laws aim to minimise the incidence of injury and nuisance being caused to residents, to protect the welfare of companion and domestic animals and to protect the welfare and habitat of wildlife within the Council area.*

*The keeping of companion animals and/or pet animals can be most beneficial to the well being of people, this By-law seeks to inform the reasonable limits which applies to these animals and their accommodation and the circumstances under which they may be kept on premises, within the Council's area of responsibility, in order to ensure that residents continue to enjoy a safe and nuisance free rural lifestyle.*

#### *Division 1 General*

##### **1 Citation**

These By-laws may be cited as the Litchfield Council Rural Dog Management By-laws.

## 2 Crown to be bound

These By-laws bind the Crown in right of the Territory.

## 3 Interpretation

In these By-laws, unless the contrary intention appears:

***appropriate fee*** means the fee determined from time to time by the Council to be the fee for a permit, authority, license, registration or other matter or for a class or classes of permit, authority, license, registration or other matter

***approved*** means approved by the Council by resolution

***bicycle or tricycle*** means a 2 or, as the case may be, 3 wheeled vehicle designed to be propelled by human power and includes a powered bicycle or tricycle

***Council*** means the Litchfield Council

***determined*** means determined by the Council by resolution

***license*** means a license issued under these By-laws, and includes a renewal of a license

***meeting*** means a meeting of the Council

***motor vehicle*** means any vehicle designed to be self propelled and includes a trailer when attached to a motor vehicle, but does not include a motorised wheelchair which is not capable of travelling at a speed greater than 7 km/h or a powered bicycle or tricycle

***Municipality*** means the Municipality of Litchfield

***owner***, in relation to:

(a) an animal (other than a dog), or vehicle means, in the absence of proof to the contrary, the person for the time being in control of the animal or vehicle;

(b) a dog, has the meaning of 'owner' contained in By-law 18;

(c) a motor vehicle means the person in whose name the vehicle is registered under the *Motor Vehicles Act* or under another law of the Territory or under a law of a State or other Territory of the Commonwealth that provides for the registration of vehicles

*penalty unit* means the penalty unit set by the Northern Territory Government. This is subject to change at the Governments discretion

*permit* means a permit issued under these By-laws, and includes a renewal of a permit

*premises* has the meaning of 'premises' contained in By-law 18

*public beach* means a beach or foreshore open to or used by the public

*public place* has the meaning of 'public place' contained in By-law 18

*register* means a record of information established and maintained by the registrar established in pursuance of By-law 8

*registrar* has the meaning of 'registrar' contained in By-law 18

*reserve*, means land, including its waters, being a public place that is vested in, leased to, or under the care, control or management of, the Council and capable of being used as a reserve, park, garden, recreation ground, oval or playing field, or for swimming, bathing, boating or other recreation associated with water

*vehicle* means a conveyance or other device designed to be propelled or drawn by any means and includes a bicycle or tricycle, motor vehicle, or an animal being driven or ridden but does not include a train, or a motorised wheelchair which is not capable of travelling at a speed greater than 7 km/h

#### 4 Application of By-laws

These By-laws shall apply to and be in force within the whole of the Municipality.

## **5 Determinations**

- (1) The Council may determine the charges, dues, fares, fees and rents in relation to a property, undertaking, service, matter or thing.
- (2) A determination under By-law 5 (1) may (for example) be made for any of the following:
  - (a) supplying a service, product or commodity;
  - (b) granting a license or permit;
  - (c) registering an animal or thing;
  - (d) giving information;
  - (e) admitting a person to a building or enclosure;
  - (f) receiving an application for approval;
  - (g) permitting inspection of a register;
  - (h) allowing the use of real or personal property of or under its care.
- (3) If the Council makes a determination under this By-law, it must publish a notice of its making in a newspaper circulating in the Municipality as soon as practicable after the determination is made.
- (4) The Council may demand and recover the relevant amount determined under By-law 5(1) if the Council has:
  - (a) published a notice of the making of the determination under By-law 5(3);  
and
  - (b) taken the action for which the amount is determined.

## **6 Resolutions**

Notice of resolution made by the Council under these By-laws (other than By-law 10) shall be published in a newspaper circulating in the Municipality no later than 28 days after the making of the resolution.

## **7 Registrar**

The Council may appoint a person to be the registrar for the purposes of these By-laws or for a part of the By-laws.

## **8 Registers**

- (1) The registrar shall keep or cause to be kept by an approved third party such number of appropriate registers as may be determined by the Council.
- (2) The registrar may keep or cause a register to be kept in such medium or combination of mediums as the registrar thinks fit including, but not limited to, an electronic medium, microfilm or other hard copy format.

## **9 Matters of evidence**

- (1) An extract from or copy of an entry in any register purported to be signed by the registrar shall, in all courts and on all occasions, be prima facie evidence of the signature of the registrar and of the particulars contained in the entry without requiring the production of the register.
- (2) A statement signed by the registrar concerning particulars of entries in a register including, in relation to an animal, matter or thing:
  - (a) whether the name of a person was entered in a register in relation to an animal, matter or thing; or
  - (b) whether a license, permit, authority or registration had been issued, shall, in all courts and on all occasions, be prima facie evidence of the signature of the registrar and of those particulars without requiring the production of the register.

## **10 Requirements for execution of works**

- (1) Where the Council requires work to be carried out by the owner or occupier of land, the Council, an authorised person, or an officer or employee authorised on that behalf may, by written notice served on the owner or occupier, require the owner or occupier at his or her own expense to execute the work or to cause it to be executed, and to do anything incidental to the work:
  - (a) in or of the materials;
  - (b) within the period;
  - (c) in the manner; and
  - (d) in the area  
specified in the notice.
- (2) The Council may require that work done in pursuance of a notice served under By-law 10(1) be executed by qualified or licensed persons only.
- (3) The Council may, when serving a notice under By-law 10(1), indicate that the Council will, if requested, carry out the works referred to in the notice at the expense of the person on whom the notice is served.
- (4) Without limiting the generality of the powers conferred on the Council or other person under By-law 10(1), the power to direct the manner of execution of work shall include the power to require the person carrying out the work to pay to the Council, or enter into a bond for payment to the Council, such amount as the Council deems appropriate to provide security against costs that it may incur as a result of the execution of the work.

## **11 Where requirements not complied with**

- (1) The Council may carry out work required by or under the Act or these By-laws to be executed on default for the person required to execute the work.

- (2) Where the Council carries out work under By-law 11(1), the cost to the Council of carrying out the work is a debt due and payable by the person required to execute the work.

## ***Division 2 Regulatory***

### **12 Obstruction of officers, &c.**

- (1) It is an offence for a person to obstruct, hinder, disturb or interrupt an authorised person or authorised officer or employee of the Council or a contractor or sub-contractor to the Council or employee of the contractor or sub-contractor in the proper execution of his or her work or duty.
- (2) An offence under By-law 12(1) is a regulatory offence.

### **13 Power of arrest or removal**

An officer or employee, authorised person or person appointed by the Council for the purpose or, without derogating from their general power, members of the Police Force, are hereby authorised to arrest or remove persons offending against these By-laws.

### **14 General penalty**

A person who contravenes or fails to comply with these By-laws is guilty of an offence and is liable on conviction to a penalty not exceeding 100 penalty units and, in addition, to a penalty not exceeding 1 penalty unit for each day during which the offence continues.

### **15 Infringement notice and payment of sum in lieu of penalty**

- (1) Despite By-law 14 as an alternative to prosecution, a person who is alleged to have contravened or failed to comply with these By-laws may be served with

an infringement notice under which the person may pay to the Council a sum (*fixed penalty*) in lieu of the penalty by which the infringement of the By-laws is otherwise punishable.

(2) For the purposes of this By-law:

(a) the fixed penalty payable under an infringement notice:

- i. for a By-law specified in the Schedule, column 1 – is the amount specified opposite in column 2; and
- ii. for any other By-law – 1 penalty unit.

(b) an infringement notice is to be in a form, approved by the Council in accordance with By-law 15(4) that includes:

- i. the information required by section 245(2) of the Local Government Act; and
- ii. the statements required by By-law 15(3)

(c) an infringement notice may be issued and served by an authorised officer; and

(d) the fixed penalty specified in an infringement notice is to be paid to the Council; and

(e) the fixed penalty specified in an infringement notice is to be paid no later than 14 days after the date on which the infringement notice is served on the alleged offender.

(3) An infringement notice is to contain the following statements:

(a) a statement to the effect that:

- i. the alleged offender may expiate the offence and avoid enforcement action under the *Fines and Penalties (Recovery) Act* if the alleged offender pays the fixed penalty to the Council within 14 days of service of the infringement notice; and

- ii. if the alleged offender pays the fixed penalty within the period specified in the infringement notice, the Council will take no further action in relation to the offence
- (b) a statement to the effect that if the alleged offender does not pay the fixed penalty within the period specified in the infringement notice and does not serve on the Council a statement of election to have the matter dealt with by a court (as contained in the infringement notice), unless the infringement notice is withdrawn:
- i. the *Fines and Penalties (Recovery) Act* will apply and the alleged offender may be served with a courtesy letter in accordance with that Act requiring payment of the fixed penalty together with the costs in respect of the issue of that letter; and
  - ii. if the alleged offender does not make the payment as required by a courtesy letter, enforcement action may be taken against the alleged offender under the *Fines and Penalties (Recovery) Act* which, after due process, may result in the suspension of the alleged offender's license to drive, the seizure of property, the deduction of wages or salary, the registration of a statutory charge on land, a community work order or imprisonment if a community work order is breached.
- (c) a statement to the effect that the alleged offender may elect under section 21 of the *Fines and Penalties (Recovery) Act* to have the matter dealt with by a court instead of under the *Fines and Penalties (Recovery) Act* by completing a statement of election (as contained in the infringement notice) and serving it on the Council;
- (d) a statement of election, for completion by the alleged offender if he or she elects to have the matter dealt with by a court, that includes the information required by regulation 7(1) of the *Fines and Penalties (Recovery) Regulations*;

(4) For the purposes of By-law 15(2)(b) the form of an infringement notice is to be approved by the Council at a meeting at which not less than two-thirds of the members then in office are present, by resolution carried by a majority of the members then in office.

## **16 Withdrawal of infringement notice**

(1) An infringement notice served on an alleged offender may be withdrawn at any time before a courtesy letter is served on that person under the *Fines and Penalties (Recovery) Act*, but only if the Council has not received payment of the fixed penalty specified in the infringement notice.

(2) The withdrawal of an infringement notice is effected when an authorised officer serves on the alleged offender a notice of withdrawal stating:

(a) that the infringement notice is withdrawn; and

(b) that the fixed penalty specified in the infringement notice is no longer payable to the Council.

## **Part 2 DOG MANAGEMENT**

### ***Division 1 Preliminary matters***

#### **17 Purpose of Part**

The purpose of these By-laws is to provide for the keeping of dogs as companion animals within the Municipality in a manner which is compatible with the enjoyment of residents in a congenial rural environment.

#### **18 Interpretation**

(a) In Parts 1, Parts 2 and Part 3:

***abandons*** means and includes deliberately leaving a dog at a premises or public place without the consent of the owner or occupier of the premises or the person in control of the public place or failing to obtain the release of a dog from a holding kennel

***animal*** means all animals kept on private premises in the Municipality and includes dogs, cats, birds and reptiles

***animal restriction area*** means an area determined by Council to prohibit the keeping of animals

***approved microchip*** means an electronic device that can be implanted into the tissue of an animal for the purposes of identification recognised by an approved microchip service provider approved by Council

***approved microchip service provider*** means a person who operates a register or data base for an approved microchip

***at large*** means a dog (other than a dog in the custody of an authorised person or is in a holding kennel) in a place other than the premises owned or occupied by the owner of the dog and not under effective control

***attack*** in relation to the actions of a dog, means a dog biting or holding a person or animal in its mouth whether or not the holding is accompanied by biting, shaking pulling or pushing or the person suffers any injury (physical or otherwise)

***authorised officer*** means an officer or employee of the Council who is authorised to exercise all or any of the following powers referred to in By-law 13 or 19

***dog*** means an animal of the genus *Canis*

***dog exercise area*** means an area within the Municipality, determined by Council to be a dog exercise area that specifies:

(a) the times when a dog may be exercised; and

(b) the conditions to apply when exercising the dog

***guide dogs*** means:

- (a) a dog being trained by an organisation that trains guide dogs and is approved by the Council; or
- (b) a dog kept or used by a visually impaired person or hearing impaired person as a guide dog including a dog trained by him or her as a guide dog

***effective control*** means in relation to a dog, a dog under effective control as provided in By-law 30(3)

***holding kennel*** means a holding kennel referred to in By-law 40

***holding kennel manager*** means a person appointed to manage a holding kennel

***menaces*** in relation to a dog means chasing, menacing, harassing or rushing at a person or persons or animal or animals in a manner endangering or causing fear, alarm or distress to the person or persons or animal or animals and whether or not there is physical contact or injury to the person or animal

***Municipality*** means the Municipality of Litchfield

***owner*** in, relation to a dog, means:

- (a) the person appearing in a register as the owner of the dog having an approved microchip;
- (b) the person at the time being in control of the dog;
- (c) the occupier of premises or a part of a premise where the dog is found or usually kept; or
- (d) if the owner has not attained the age of 17 years, a parent or guardian of the owner

***premises*** included a building and land (whether built on or not)

***public place*** includes:

- (a) a place to which free access is permitted to the public, with the express or tacit consent of the owner or occupier of the place;

- (b) a place to which the public are admitted on payment of money, the test of admittance being the payment of the money only;
- (c) a road, street, footway, court, alley, thoroughfare, sporting facility or cul-de-sac that the public are allowed to utilise and access, despite that the street, footway, court, alley, thoroughfare, sporting facility or cul-de-sac may be formed on private property; or
- (d) land reserved under a law of the Northern Territory for the use of the public or a member of the public

**registrar** means the registrar appointed under By-law 7

**veterinarian** means a registered veterinarian as defined in the *Veterinarians Act*

**working dogs** means a dog that:

- (a) is kept by the Police or any constable, the Customs Department or any officer or employee of any such Department of the Northern Territory solely or principally for the purposes of carrying out the functions, powers and duties of the Police or that department of the Department of the Northern Territory or that constable, officer or employee; or
- (b) has been determined by resolution by Council to be a working dog for the purpose of these, By-laws and kept solely or principally for the purposes specified in the resolution

## 19 Delegation

- (1) Subject to this By-law, an authorised person of the Council may for the purposes of these By-laws, exercise all or any of the following powers:
  - (a) sign, seal or sign and seal notices, orders and agreements which Council is entitled to issue, sign, seal, revoke or cancel;
  - (b) sign letters, receipts and other documents;

- (c) do or perform an act, deed or thing necessary, ancillary or incidental to the exercise of the functions of the Council under these By-laws.
- (2) An authorised officer of the Council shall exercise a power conferred by By-law 19(1) only by the resolution of the Council and in accordance with the conditions, if any, imposed by the Council.
- (3) A determination under By-law 19(2) may be of general nature or for a class or classes of cases or be with respect to a particular case.
- (4) A power or function delegated under this By-law, when exercised or performed by the delegate, shall for the purposes of these By-laws, be deemed to have been exercised by the Council.

#### **19A Exemptions**

By-laws 20,21,22,23, and 35 do not apply to guide dogs.

By-laws 20,21,22,23 and 29 do not apply to working dogs.

#### ***Division 2 Identification requirement***

#### **20 Requirement for approved microchip**

- (1) A dog that is usually kept within the Litchfield Municipality must be fitted with an approved microchip within 2 months of being kept within the Litchfield Municipality, providing the dog is at least 12 weeks of age.
- (2) For the purpose of By-law 20(1) the dog is taken to be usually kept within the Council area if the dog has been kept within the Litchfield Municipality for a period of 2 months or more, ignoring any temporary absences.
- (3) An offence against By-law 20(1) and (2) is a regulatory offence.

**21 Provider or supplier must ensure dog is implanted**

- (1) A person who provides by sale or otherwise a dog to another person must ensure the dog is implanted with an approved microchip prior to change of ownership.
- (2) An offence against By-law 21(1) is a regulatory offence.

**22 Requirement to notify change of dog identification details**

- (1) The owner of a dog must provide in writing, notice of the change to the relevant service provider of the approved microchip and Council within fourteen days of the change.
- (2) An offence against By-law 22(1) is a regulatory offence.

**23 Requirement to notify change of ownership of approved microchip details**

- (1) A person who takes possession of a dog by sale or otherwise must notify the approved microchip service provider and Council in writing within fourteen days of the change of ownership including:
  - (a) the person's name and address;
  - (b) the name of the registered owner; and
  - (c) the approved microchip details of the dog;
- (2) An offence against By-law 23(1) is a regulatory offence.

***Division 3 Animal restriction area and Dog exercise area***

**24 Animal restriction areas**

- (1) Council may determine an area within the Municipality to be an animal restriction area.

(2) In making a determination under By-law 24(1) Council may prohibit the keeping of:

(a) dogs;

(b) cats;

(c) other animals;

(d) more than a specified number of dogs at premises;

(e) more than a specified number of dogs of any breed at any premises

within the Municipality.

*For example: Council may by resolution restrict or prohibit the presence of dogs (other than guide dogs) at specific community or public events.*

## **25 Dog exercise areas**

(1) The Council may, by resolution:

(a) declare an area within the Municipality to be a dog exercise area; and

(b) specify for that area:

i. the times when a dog may be exercised; and

ii. the conditions to apply when exercising the dog.

(2) The Council shall, not less than 28 days before declaring an area to be a dog exercise area or a dog restriction area, publish a notice of the proposed area in a newspaper circulating in the Municipality.

## **26 Operation of notice**

A notice served by the Council subject to these By-laws takes effect at the expiration of 7 days after the service of the notice.

## ***Division 4 Offences***

### **27 Unidentified dogs**

- (1) It is a defense to a prosecution for an offence against By-law 20 if the person charged with the offence proves that the dog had not been usually kept within the Litchfield Municipality for a period of 2 months before the date of the alleged offence.
- (2) By-laws 20, 22 and 23 do not apply to:
  - (a) a kennel manager keeping a dog in a holding kennel;
  - (b) the registrar, in the course of the exercise or performance of the registrar's powers or functions under these By-laws;
  - (c) a person boarding a dog for the owner of the dog for less than 2 months;
  - (d) a dog under the age of 12 weeks;
  - (e) an approved animal welfare organisation; or
  - (f) a veterinarian keeping a dog for the purposes of treatment.
- (3) By-laws 20, 22, 23 and 35 do not apply to a person who operates a commercial dog kennel in accordance with an occupancy permit or permit to occupy pursuant to the Planning Act.

### **28 Conditions to be observed**

- (1) Subject to these By-laws, a person who contravenes or fails to comply with a condition to which the keeping of a dog is subject is guilty of an offence.
- (2) An offence against By-law 28 is a regulatory offence.

**29 Keeping dogs in an animal restriction area**

- (1) Subject to these By-laws, a person who keeps a dog within Litchfield Municipality area, within a dog restriction area where the keeping of the dog is prohibited is guilty of an offence.
- (2) An offence against By-law 29(1) is a regulatory offence.
- (3) It is a defense to a prosecution for an offence against By-law 29(1) if the person charged with the offence proves that the dog at the date of the making of the resolution declaring the dog restriction area –
  - (a) was owned by the person;
  - (b) was usually kept at premises in the animal restriction area; and
  - (c) if required by these By-laws to be registered, was registered.

**30 Dog at large**

- (1) Subject to these By-laws, the owner of a dog which is at large and is not under effective control within the Litchfield Municipality is guilty of an offence.
- (2) An offence against By-law 30(1) is a regulatory offence.
- (3) For this By-law a dog is under effective control if the dog:
  - (a) is restrained by a suitable leash that is held by a person who is competent to restrain the dog; or
  - (b) otherwise prevents the dog from breaking free or committing an attack; or
  - (c) is in a dog exercise area in accordance with By-law 25 (1)(a) or (b) and the conditions specified for the area; and all of the following apply:
    - i. the dog is immediately responsive to a voice command of its owner;
    - ii. the dog is not a female dog in estrus;

iii. the owner is carrying a suitable leash.

### **31 Enticement**

(1) A person who, with intent to commit an offence against these By-laws or to cause such an offence to be committed, entices or induces a dog to enter a place in which it is at large is guilty of an offence.

(2) An offence against By-law 31(1) is a regulatory offence.

### **32 Dog in enclosed place with other animals**

(1) Subject to these By-laws, a person who, without the consent of the owner of the animal, permits a dog to be in an enclosed field, paddock, yard or other place (other than a place owned or occupied by the person or the holding kennel) within the Municipality, in which an animal owned by another person is confined is guilty of an offence.

(2) An offence against By-law 32(1) is a regulatory offence.

### **33 Dog attacking or menacing persons or animals**

(1) Subject to these By-laws, the owner of a dog which:

(a) attacks a person or animal within the Litchfield Municipality is guilty of an offence; or

(b) menaces a person or animal within the Litchfield Municipality is guilty of an offence

(2) A person who invites, encourages or provokes a dog to do an act referred to in By-law 33 is guilty of an offence.

(3) An offence against By-law 33(1) or (2) is a regulatory offence.

(4) It is a defense to a prosecution for an offence against By-law 33(1)(a) or (b) and 33(2) if the owner of the dog proves that:

- (a) a person had, without the owner's permission, invited, encouraged or provoked the dog to attack the person or animal; or
- (b) the person or animal attacked was attacked when on premises owned or occupied by the owner of the dog.

**34 Dog chase vehicle**

- (1) The owner of a dog which chases a vehicle within the Litchfield Municipality is guilty of an offence.
- (2) An offence against By-law 34(1) is a regulatory offence.

**35 Dog causing nuisance**

- (1) The owner of a dog who permits that dog, either by itself or in concert with other dogs, to become a nuisance within the Municipality is guilty of an offence.
- (2) An offence against By-law 35(1) is a regulatory offence.
- (3) For the purpose of this By-law, a dog causes a nuisance if it:
  - (a) is injurious or dangerous to the health of the community;
  - (b) consistently barks or otherwise when people or vehicles use a road in the vicinity of the premises where the dog is kept;
  - (c) persistently barks to such a degree that it unreasonably interferes with the peace, comfort or convenience of a person; or
  - (d) defecates in a public place or on private property that is not owned or occupied by the owner of the dog providing:
    - i. the owner or person in control of the dog at the time the dog defecates does not immediately remove and dispose of the faeces in a manner that is not offensive to another person.

(e) is at large on more than one occasion.

(4) If in the opinion of Council, any dog or dogs kept on premises, has become or is likely to become a nuisance, the Council or authorised officer may by notice, require the owner or occupier of the premises, within a time specified in the notice, to take all or any of the following actions:

(a) construct, alter, reconstruct or otherwise improve the dogs place of confinement, kennel or other buildings used to contain the dog or dogs; as determined by Council; or

(b) require the dog or dogs to be tied up or otherwise confined during the time specified in the notice; or

(c) to take such action as the Council deems necessary to minimise, mitigate or remove the likelihood of the nuisance.

*For example: If a dog from another Council area moves into the Litchfield Municipality and already has conditions on the keeping of that dog in the previous Council area, Litchfield Council can also place the same conditions on the keeping of the dog.*

### **36 Abandoning dogs**

(1) A person who abandons a dog in the Litchfield Municipality is guilty of an offence.

(2) An offence against By-law 36(1) is a regulatory offence.

### **37 Obstruction of an authorised officer or holding kennel manager**

(1) A person who obstructs or hinders an authorised officer or a holding kennel manager in the execution of his or her duties under these By-laws is guilty of an offence.

(2) A person who:

- (a) removes or attempts to remove a dog from the custody of an authorised officer; or
- (b) except in pursuance of these By-laws, removes or attempts to remove a dog from a holding kennel;
- (c) is guilty of an offence.

(3) An offence against By-law 37(1) or (2) is a regulatory offence.

### **38 False information**

(1) A person who knowingly makes a false statement in a document required or permitted to be made under these By-laws is guilty of an offence.

(2) An offence against By-law 38(1) is a regulatory offence.

## ***Division 5 Enforcement***

### **39 Seizure of dogs**

(1) An authorised officer may seize:

- (a) an apparently dangerous, diseased, injured, savage, destructive, stray or unidentified dog; or
- (b) a dog that is at large and not under effective control; or
- (c) a dog which, the owner of that dog, has not complied with any lawful conditions imposed under these By-laws in relation to the keeping of that dog.

(2) An authorised officer may destroy a dog if:

- (a) it is dangerous, diseased, injured, savage, destructive; and
- (b) the authorised officer considers it necessary to do so.

(3) An authorised officer may:

- (1) deliver a seized dog under By-law 39(1)(a), (b) or (c) to its owner or to a holding kennel as soon as practicable after it is seized; or
- (2) seek authorisation from the Council Chief Executive Officer in connection with entering land for the seizure and/or destruction of a dog; or
- (3) apply to the Local Court for an order in connection with entering land for the seizure and/or destruction of a dog.
- (4) For the purposes of this By-law, an authorised officer may set approved Council traps to trap dogs on Council land.
- (5) For the purposes of this By-law, an authorised officer may set approved traps to trap a dog in a public place or on private land with the written consent of the owner of the land or person responsible for managing the public place.
- (6) An authorised officer must ensure that any animal trapped in a trap referred to in By-law 39(4) or (5) is removed from the trap as soon as practicable in order to minimise distress to the animal.

### ***Division 6 Holding Kennel and held and restrained dogs***

#### **40 Establishment etc. of holding kennel**

- (1) The Council may:
  - (a) establish a holding kennel; or
  - (b) make any arrangements that it thinks fit for the use of premises for holding and restraining dogs under these By-laws.
- (2) The Council may appoint persons that it deems suitable to be a holding kennel manager.

#### **41 Notice of holding and restraining**

- (1) If an identified dog with an approved microchip is delivered to a holding kennel, the holding kennel manager must serve a notice, in the approved form, of the incarceration of the dog on the identified owner.
- (2) If a dog with a collar displaying the address of its owner is delivered to a holding kennel, the holding kennel manager must serve a notice, in the approved form, of the incarceration of the dog to that address.
- (3) Except in accordance with By-law 41(1) or (2) the registrar is not obliged to notify the owner of a dog of the incarceration of the dog.

#### **42 Release of dogs from holding kennel**

- (1) A dog in a holding kennel shall not be released from the holding kennel:
  - (a) unless it is fitted with an approved microchip; and
  - (b) other than to the owner of the dog or to a person authorised in writing by the owner to act as the owner's agent; and
  - (c) there is paid to the holding kennel manager the maintenance and release fees fixed under By-law 42(2).
- (2) The Council may, by resolution, determine a daily fee to be paid in relation to the maintenance of a dog in a holding kennel and a fee to be paid on the release of a dog from a holding kennel.
- (3) By-law 42(1)(a) does not apply to:
  - (a) a dog which has not been usually kept within the Municipality for 2 months immediately preceding the date of its release from the holding kennel; or
  - (b) a dog under 12 weeks of age.

#### **43 Destruction of incarcerated dogs**

- (1) Subject to these By-laws, the holding kennel manager may order the destruction of a dog incarcerated in a holding kennel.
- (2) The holding kennel manager shall not destroy a dog incarcerated in a holding kennel before the expiration of a period determined by the Council by resolution:
  - (a) in the case of a dog referred to in By-law 41(1) or (2) after the expiration of the notice issued; or
  - (b) in the case of any other dog, not specified in By-law 41(1) and (2), after the dog has been incarcerated.
- (3) A holding kennel manager may, instead of causing a dog to be destroyed under By-law 43(1) or (2)(a) or (b):
  - (a) sell the dog – providing all appropriate maintenance costs incurred for the keeping of that dog are recovered in the sale; or
  - (b) pass the ownership of the dog to an approved incorporated body that is formed and carried on for purposes that include the provision of services relating to animal welfare.

#### **44 Diseased dogs**

- (1) If a holding kennel manager who takes custody of a dog that has been seized under these By-laws:
  - (a) notices or suspects that the dog is diseased; or
  - (b) receives advice from a veterinarian that the dog is, or is suspected of being, diseased,the holding kennel manager must:
  - i. isolate the dog from other dogs in the holding kennel; and

- ii. notify the Council of the dog's condition.
- (2) The Council must serve on the owner, according to By-law 41(1) or (2), of a dog isolated under By-law 44(1), written notice that the dog is or is suspected of being diseased and that the Council:
- (a) requires the dog to be destroyed; or
  - (b) requires the dog to undergo a course of treatment specified in the notice.
- (3) In notice served under By-law 44(2) the Council may require the owner of the dog to produce to the Council a report prepared by a veterinarian or a person specified in the notice confirming that the dog is not required to be destroyed.
- (4) A dog which is the subject of a notice under this By-law may be released from the holding kennel in accordance with By-law 42 subject to any conditions imposed by Council.
- (5) The cost of treatment reasonably provided by a holding kennel manager to a diseased dog, and to any other dog in the holding kennel that was infected or was at risk of being infected by the diseased dog before the holding kennel manager could reasonably isolate it, is a debt due and payable by the owner of the diseased dog to the Council.
- (6) The owner of a dog who contravenes or fails to comply with a requirement of a notice served on the owner of the dog under By-law 44(2) or a condition imposed in accordance with By-law 44(4) commits an offence.
- (7) An offence against By-law 44(2) or (4) or By-law 47 is a regulatory offence.

#### **45 Method of destruction of incarcerated dogs**

- (1) A dog in a holding kennel must not be destroyed other than:
- (a) by a veterinarian or a person who is, in the opinion of a holding kennel manager, qualified to destroy the dog; or

- (b) in a humane manner that causes the dog to die quickly and without unnecessary suffering.

## **PART 3 MISCELLANEOUS**

### ***Division 1 Dog Obedience.***

#### **46 Exemptions**

- (1) The Council may, by notice in writing, exempt a person or body of persons from By-law (30) for the following purposes or events:
  - (a) a dog race, dog trial or a dog taking part in the activities of a recognised dog club event;
  - (b) using a dog to drive cattle or stock on a road; or
  - (c) for such other event or purpose as the Council may, from time to time, determine.
- (2) An exemption under By-law 46(1)(a), (b) or (c) may relate to a particular event or purpose or to a class of events or purposes and may be subject to such conditions, if any, as the Council imposes.

### ***Division 2 Animals generally***

#### **47 Diseased and injured animals and animals at large**

- (1) The Council may, by notice in writing, require the owner of:
  - (a) a diseased, injured, savage or destructive animal whether it is on private land or in a public place; or

- (b) an animal at large in a public place that, if left at large, is likely to be a danger to the safety of the public.

to immediately remove or otherwise dispose of the animal and where it is reasonable to do so, require the destruction of the animal.

#### **48 Removal, &c., of dead or diseased, &c., animals**

- (1) The Council may cause a dead animal that is found in a public place to be disposed of, removed or destroyed.
- (2) The Council may, without notice to the owner of a dead, diseased or injured animal, or of an animal at large in a public place that is likely to be a danger to the safety of the public, cause the carcass or the animal to be disposed of, removed or destroyed.
- (3) Where the Council incurs expense in removing, destroying or disposing of an animal or a dead animal, the Council may recover the expense from the owner of the animal as a debt due and payable to the Council.

#### **49 Occupier is deemed owner**

For the purposes of this Division, and in the absence of evidence to the contrary, the occupier of land where an animal or a dead animal is found shall be deemed to be the owner of the animal.

## SCHEDULE

By-law	Penalty Units
20(1)-Requirement for Microchip	2
30(1) and 20(1) Dog At Large / No Microchip	2
30(1) Dog At Large	1
33(1)(a) Dog Attack Animal	6
33(1)(a) Dog Attack Person	6
33 (1)(b)- Dog Menace	3
34(1) Dog Chase Vehicle	3
35(1) Dog Nuisance	1