

# ENVIRONMENTAL SERVICES



## DOG CONTROL POLICY

**Dog Control Policy 2011**

# DOG CONTROL POLICY

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## Interpretation

“**ACT**” means the Dog Control Act 1996, and includes all amendments.

“**GUIDE DOG**” means a dog certified by the Royal New Zealand Foundation for the Blind as being a guide dog or a dog under training as a guide dog.

“**HEARING EAR DOG**” means a dog certified by the Hearing Association (Incorporated) as being a hearing ear dog or a dog under training as a hearing ear dog.

“**WORKING DOG**” means-

- a. Any guide dog, hearing ear dog or companion dog as defined in the Act;
- b. Any dog-
  - i. kept by the Police or any constable, the Customs Department, the Ministry of Agriculture, the Ministry of Fisheries or the Ministry of Defence, or any officer or employee of any such Department of State solely or principally for the purposes of carrying out the functions, powers, and duties of the Police or the Department of State or that constable, officer, or employee; or
  - ii. kept solely or principally for the purposes of herding or driving stock; or
  - iii. kept by the Department of Conservation or any officer or employee of that Department solely or principally for the purposes of carrying out the functions, duties, and powers of that Department; or
  - iv. kept solely or principally for the purposes of destroying pests or pest agents under any pest management strategy under the Biosecurity Act 1993; or
    - (a) kept by the Department of Corrections or any officer or employee of that Department solely or principally for the purposes of carrying out the functions, duties, and powers of that Department; or]
    - (b) kept by the Aviation Security Service established under section 72B(2)(ca) of the Civil Aviation Act 1990, or any officer or employee of that Service solely or principally for the purposes of carrying out the function, duties, and powers of that Service; or]
    - (c) certified for use by the Director of Civil Defence Emergency Management for the purposes of carrying out the functions, duties, and powers conferred by the Civil Defence Emergency Management Act 2002; or]
  - v. owned by a security guard as defined in section 4 of the Private Investigators and Security Guards Act 1974 and kept solely or principally for the purposes of carrying on the business of a security guard; or
  - vi. declared by resolution of the territorial authority to be a working dog for the purposes of this Act, or any dog of a class so declared by the authority, being a dog owned by any class of persons specified in the resolution and kept solely or principally for the purposes specified in the resolution.

“**DANGEROUS DOG**” means any dog the authority has reasonable grounds to believe constitutes a threat to the safety of any person, stock, poultry, domestic animal, or protected wildlife due to sworn evidence, owner admitting their dog is dangerous or the owner has been convicted of an offence under section 57A(2).

“**MENACING DOG**” means any dog the authority considers may pose a threat to any person, stock, poultry, domestic animal or protected wildlife due to observed or reported behaviour OR shows characteristics typically associated with the dog's breed or type listed in Schedule 4 of the Act.

**“NEUTERED DOG”** means a dog that has been spayed or castrated but does not include a dog that has been vasectomised.

**“OWNER”**, in relation to any dog, means every person who:

- a. owns the dog; or
- b. has the dog in his or her possession, whether the dog is at large or in confinement, otherwise than for a period not exceeding 72 hours for the purpose of preventing the dog causing injury, damage, or distress, or for the sole purpose of restoring a lost dog to its owner; or
- c. The parent or guardian of a person under the age of 16 years who:
  - i. is the owner of the dog pursuant to paragraph (a) or paragraph (b) of this definition; and
  - ii. is a member of the parent or guardian's household living with and dependant on the parent or guardian;

but does not include any person who has seized or taken custody of the dog under this Act or the Animal Welfare Act 1999 or the National Parks Act 1980 or the Conservation Act 1987 or any order made under this Act or the Animal Welfare Act 1999.

**“RESPONSIBLE OWNER POLICY”** will apply to any owner of a dog who:

- a. applies for RESPONSIBLE OWNER STATUS and has their application approved; and
- b. controls his or her dog; and
- c. whose dog is securely contained within the property while allowing people access to a door of the residence on the property without encountering their dog or has signs erected on or near the front entrance of the property alerting people to the presence of the dog; and
- d. registers his or her dog by the appropriate due date (1 August of each registration year or before the dog is three months of age); and
- e. has not had a dog impounded more than once within the last twelve months; and
- f. has not been issued with an infringement notice within the last twelve months; and
- g. has never received a conviction for an offence under the Act; and
- h. has not had a dog classified 'menacing' or 'dangerous' because of observed behaviour, where the classification has not been rescinded; and
- i. who ensures that any outside kennels are weatherproof and maintained in a hygienic manner.

**“RURAL DOG”** means a dog that is kept or usually kept on a property in one of the rural zones including the rural lifestyle zone, under Council's District Plan.

## Introduction

The Dog Control Act 1996 came into force on the 1st July 1996.

- A.** To make better provision for the care and control of dogs:
- by requiring the registration of dogs; and
  - by making special provision in relation to dangerous and menacing dogs; and
  - by imposing on the owners of dogs, obligations designed to ensure that dogs do not cause a nuisance to any person and do not injure, endanger, or cause distress to any stock, poultry, domestic animal, or protected wildlife; and
- B.** To make provision in relation to damage done by dogs.

Under the Act, Council is required to adopt a policy on dogs covering the following matters:

- identifying public places where dogs are allowed access
- bylaws made under the Act
- fees
- classifying owners as probationary
- disqualifying owners from owning dogs
- the issuing of infringement notices

The Policy can include any other details as the territorial authority thinks fit. When adopting a policy on dogs, the Council must have regard to the following matters:

- the need to minimize danger, distress and nuisance to the community generally; and
- the need to avoid the inherent danger in allowing dogs to have uncontrolled access to public places that are frequented by children, whether or not the children are accompanied by adults; and
- the importance of enabling, to the extent that is practicable, the public (including families) to use streets and public amenities without fear of attack or intimidation by dogs; and
- the exercise and recreational needs of dogs and their owners.

These matters have been considered in the development of this Policy.

### 1.0 Restriction on the number of dogs

The maximum number of dogs over the age of three months to be kept firstly, on any property having an area of 1,000 m<sup>2</sup> or less, situated in any rural zone and secondly, on any other property in the city, is two.

Council has delegated authority to its Director of Environmental Services to grant exemptions from this policy in certain circumstances.

An exemption may be granted to owners to whom the Responsible Owner Policy applies, if their property is fully fenced to the satisfaction of the Director of Environmental Services and subject to the written consent of owners and occupiers of neighbouring properties stating that they have no objection to the keeping of more than the permitted number of dogs on that property. Applications for an exemption should be made using the relevant form.

Every additional dog must be applied for and an exemption approved by the Director of Environmental Services.

Any person not satisfied with a decision by the Director of Environmental Services, or who believes that the neighbours' consent referred to above has been unreasonably withheld, may refer the matter to the appropriate Council Committee for a final determination.

## **2.0 On leash controlled areas and off leash dog exercise areas**

- 2.1** Provided that dogs do not cause a nuisance or annoy any other users, dogs may be exercised off leash but under the control of their owners or a responsible person authorised by their owner in any public places that are not specifically excluded by clause 2.2 below.
- 2.2** All dogs in public places, except working dogs that are working, are to be controlled by being on a leash or harness in the following areas, and at the times stipulated:
- all streets zoned as residential, commercial and industrial in the Upper Hutt City Council District Plan at all times;
  - all playgrounds at all times;
  - all sports fields while a sporting event is in progress;
  - all parks while Council approved activities are in progress; and
  - Birchville Park and Te Haukaretu Park at all times.

## **3.0 Fouling in public places**

Every person, while having in his or her care or control, any dog which fouls any public place with faecal matter, is required to remove such faecal matter immediately. The faecal matter is to be disposed of responsibly.

## **4.0 Confinement**

Bitches in season are to be effectively confined during the whole of that period, but adequately exercised.

## **5.0 Diseased dogs**

No person owning or having control of any mangy or otherwise diseased dog, shall take the same into any public place or permit such dog to remain there. The owners of dogs with these conditions are to be responsible for the proper treatment of their animals.

## **6.0 Impounding or removal of dogs from a property**

Any dog found on any land or premises other than the property of its owner may be impounded except where it is under the control of its owner.

The occupier or person in charge of any land or premises may seize any dog that comes onto their land or premises and deliver it to the owner or a Dog Control Officer for impounding.

A Dog Control Officer will remove and impound a barking dog following non-compliance with a notice, where he or she has received a further complaint and considers it is still causing distress to any person.

A Dog Control Officer may seize and impound a dog which is believed to be unregistered or where the owner has not complied with menacing dog classification requirements.

A Dog Control Officer may seize and impound a dog, which is on land or premises occupied by its owner, if it is not under the direct control of a person or confined in such a way that it cannot freely leave the premises.

Impounding fees will be set by the Council annually. Additional impounding charges will be made for a second and third impounding in any 12 month period from the date of the first impounding. Sustenance fees are charged for dogs being kept in the pound facility.

No dog will be released from the pound unless it is registered, and all fees and charges have been paid. Any dog born after 1 July 2006 that is impounded must be microchipped prior to release. Any dog born prior to 1 July 2006 only requires microchipping at its second or subsequent impounding.

An unregistered dog may not be released to any person without first being implanted with a microchip.

As soon as practicable after any dog which is wearing a current registration label or disc has been impounded, or where the owner of the dog is known through some other means, the owner will be given written notice that the dog has been impounded and that unless the dog is claimed and any fees paid within seven days of the receipt of that notice, it will be re-homed, sold, destroyed or otherwise disposed of in such manner as Council sees fit.

### **Dog Control Act section 63(3)**

Where the owner of the dog is not known and cannot be identified from the dog registration label, disc or microchip number, Council may, after seven days, re-home, sell, destroy or otherwise dispose of the dog in such manner as it sees fit.

Impounded dogs will not be released to any individuals or organisations for the purpose of testing or vivisection.

## **7.0 Minimum standards for accommodation of dogs**

Every owner shall, in respect of every dog in the care of that owner:

- provide adequate kennelling or other housing so sited as to ensure adequate shade, warmth and dry conditions, and of a sufficient size to allow the dog to freely move, stretch out, stand up or recline. (Where kennels are outside they are to be weatherproof and maintained in a hygienic and nuisance free condition.)
- provide proper care and attention, sufficient food and water, and adequate exercise.

## **8.0 Barking**

The owner of any dog found to be causing a nuisance by barking persistently and loudly, following a complaint to Council and verified by a Dog Control Officer will be required to take all reasonable steps to prevent that dog from creating a nuisance by barking.

Barking is unlikely to be considered a nuisance unless the following criteria are met:

- continuous barking/howling: for 10 minutes or more in any one hour period
- response barking: more than 5 barks at a time which is repeated on average every one half hour during a daytime period or once per hour on average over a night time period
- in addition the barking must be considered loud enough to be heard beyond the dog owners' property causing persons to wake at night.

In the event that the owner cannot or will not take all reasonable steps to prevent the dog from causing a nuisance by barking, the Dog Control Officer will issue the owner a notice to remove the dog from the property. If that notice is not complied with, the Dog Control Officer will remove the dog from the property and impound it, where he or she has received a further complaint and considers it is still causing distress to any person.

## 9.0 Classification of probationary owners

Where any person is convicted of any offence (not being an infringement notice) under the Act or has received three infringement notices in 24 months, Council will classify that person as a probationary owner for a period of 24 months.

The probationary classification has the following effects:

- the owner is not allowed to own any other dogs than were owned at the time the classification was made
- the owner must dispose of any unregistered dogs
- the owner must undertake training approved by Council

A probationary owner has the right to object to the classification and have their objection heard by Council.

## 10.0 Disqualification of owners

Any owner convicted of an offence under the Act or who has received three infringement notices within a continuous period of 24 months can be immediately disqualified from owning any dog. A probationary owner who is convicted of a further offence or receives three further infringement notices can be disqualified from owning a dog. It is not necessary for an owner to be classified as a probationary owner before being disqualified. The disqualified owner must dispose of all dogs they own and cannot own any more dogs for up to five years. A disqualified owner has the right to object to the classification.

## 11.0 Classification as dangerous dog

Under the Act the Council shall classify as a dangerous dog:

- a. any dog in respect of which the owner has been convicted of an offence under [section 57A(2)]; and
- b. any dog which the territorial authority has, on the basis of sworn evidence attesting to aggressive behaviour by the dog on one or more occasions, reasonable grounds to believe constitutes a threat to the safety of any person, stock, poultry, domestic animal, or protected wildlife; and
- c. any dog that the owner admits in writing constitutes a threat to the safety of any person, stock, poultry, domestic animal, or protected wildlife.

In addition to all other obligations, the owner of any dog that is classified as dangerous must:

### Dog Control Act section 32(a)

- keep the dog in a securely fenced portion of the owners property that is not necessary to enter to obtain access to at least one door of any dwelling on the property
- ensure the dog is muzzled in any public place

- ensure the dog is neutered
- not dispose of the dog to any other person without the written consent of Council

The owner has the right to have the classification reviewed through a Council Hearing.

The owner has a right to have the classification reviewed through a Council hearing.

## **12.0 Classification as menacing dog**

Under the Act a dog may be classified as menacing due to its breed or behaviour. Council will where appropriate classify dogs as menacing.

In addition to all other obligations, the owner of any dog that is classified as menacing must:

- ensure the dog is muzzled in any public place
- ensure the dog is microchipped within 1 month of classification
- if classified under section 33A of the Act (classification by deed) ensure the dog is neutered within 1 month of classification

The owner has the right to have the classification reviewed through a Council Hearing, and if confirmed as 'menacing' the muzzling requirement must remain, but the Council may determine whether or not the dog must be neutered. In exercising its discretion the Council's Hearing Committee may have regard to:

- the nature of the incident which has caused the dog to be classified menacing;
- whether the owner is a registered breeder
- whether due to medical or age concerns the dog should not be neutered in accordance with a written recommendation from a vet.

## **13.0 Objections to dog or owner classification or owners objecting to notices to remove a barking dog from a property or against a muzzle order**

An owner requesting to be heard in support of a written objection to classification or a notice to remove a barking dog from their property or an instruction to muzzle their dog will have the objection heard by Council.

On determining an objection, Council shall give written notice of its decision and the reasons for it, to the owner within seven days of such hearing.

## **14.0 Microchipping of dogs**

Where a dog is classified as dangerous, or menacing, or was born after 1 July 2006 and it is registered for the first time or is impounded for a second time, the owner must provide permanent identification of the dog by arranging for the dog to be properly implanted with an approved microchip.

## **15.0 Fees and Charges**

Council will operate a registration fee system that provides for fee reductions and incentives that encourage dog owners to take a responsible attitude to ownership.

The registration fees structure allows for rebates for the following:

- RURAL DOGS
- RESPONSIBLE OWNER POLICY

- PROMPT PAYMENT
- NEUTERED DOGS
- REHOMED DOGS

#### **NOTES**

1. The prompt payment rebate is allowed if the fee is paid by 1st August in the year it is due. In addition, all owners registering a rehomed dog, which has been impounded, will qualify for the prompt payment rebate.
2. Applications for neutered or spayed dogs are to be accompanied by a certificate from a Veterinary Surgeon as verification.
3. The Responsible Owner Policy fee classification is available to an owner who meets the definition of the Responsible Owner Policy in the Interpretation section of this Policy.

The owner must apply for Responsible Owner Status and agree to meet the requirements of the Responsible Owner Policy.

People applying for Responsible Owner Policy classification will have their properties inspected to ensure that they meet the requirements of the Policy.

## **16.0 Revenue**

The Council's dog control function is fully funded from the revenue derived from dog fees and charges.

All money received from this source is to be expended only for the purposes of dog control.

The principal purposes to which this money is to be put are:

- dog control, including enforcement of the laws and patrols
- attending complaints and incidents
- the operation of the impounding facilities
- keeping the Dogs Register and associated administration.

## **17.0 Infringement notices**

Council will use the infringement notice system and fee levels provided for in the Act. The fees outlined are as at 21/03/11 and are subject to change to comply with any amendment made to the infringement fees in the Dog Control Act 1996 or by regulations.

Except in the case of unregistered dogs, or dog attacks, infringement notices will only be issued after a dog owner has failed to respond to a Council requisition.

### **Brief Description of Offence and Infringement Fee**

Wilful obstruction of Dog Control Officer or Dog Ranger	\$750
Failure or refusal to supply information or wilfully providing false particulars	\$750
Failure to supply information or wilfully providing false particulars about dog	\$750
Failure to comply with any bylaw authorised by the Section	\$300
Failure to comply with effects of disqualification	\$750
Failure to comply with effects of classification of dog as dangerous dog	\$300
Fraudulent sale or transfer of dangerous dog	\$500
Failure to comply with effects of classification of dog as menacing dog	\$300
Failure to implant microchip transponder in dog	\$300
False statement relating to dog registration	\$750
Failure to register dog	\$300
Fraudulent procurement or attempt to procure replacement dog registration label or disc	\$500
Failure to advise change of dog ownership	\$100
Failure to advise change of address	\$100
Removal, swapping, or counterfeiting of registration label or disc	\$500
Failure to keep dog controlled or confined	\$200
Failure to keep dog under control	\$200
Failure to provide proper care and attention, to supply proper and sufficient food, water and shelter, and to provide adequate exercise	\$300
Failure to carry leash in public	\$100
Allowing dog known as dangerous to be at large unmuzzled or unleashed	\$300

## **18.0 Bylaws**

A bylaw will be adopted that gives effect to this policy.