



# Part 6

## *DOG CONTROL*

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# **PART 6**

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*Date made: 25 July 2007*  
*Commencement: 1 July 2008*

### **EXPLANATORY NOTE**

Part 6 – Dog Control was made in accordance with the Local Government Act 2002 and section 20 of the Dog Control Act 1996. The objective of Part 6 – Dog Control is to give effect to the Whakatane District Council's Policy on Dogs (2004), which regulates the control of dogs so they do not cause danger, distress or nuisance to the community. Part 6 – Dog Control covers matters such as restrictions on dogs in public places, standard of accommodation for dogs and nuisances caused by dogs.

Schedule 1 contains a series of District maps which detail the restrictions on dogs in public places, and forms part of this Bylaw. Schedule 1 may be amended from time to time in accordance with section 151(2) of the Local Government Act 2002.

Part 6 – Dog Control is not the only major control document for dog owners. The Dog Control Act 1996 also addresses various issues such as registration, barking dogs, dogs attacking people or stock and other related matters.

Part 6 – Dog Control should be read in conjunction with the Dog Control Act 1996 and its subsequent amendments. Both this Part of the Bylaw and the Dog Control Act 1996 allow for legal action to be taken with consequent fines.

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## PART 6

### DOG CONTROL BYLAW

#### 6.1 INTERPRETATION

6.1.1 "**At large**" means free or at liberty in a public place without any physical restraint by the owner, as defined by this bylaw, of a dog or when on private property not under the direct control of the owner and is not confined within the property so that it cannot freely leave of its own free will.

6.1.2 "**Control**" in relation to or having responsibility for any dog, means that the owner, as defined by this bylaw, shall have it on a leash or confined within a vehicle or other container while in a public place. That person must also be capable of controlling the dog whilst it is on the leash, and have the power of directing or commanding the dog whilst it is off the leash in private and dog exercise areas. Without limiting the generality of the foregoing, a dog shall be deemed to be not under control:

- (a) if it causes annoyance or distress to any person or animal or damage to property;
- (b) if it is found at large in any public place, but shall not include a dog under visual or oral command whilst in a designated dog exercise area;
- (c) if it becomes a nuisance or injurious to health;
- (d) if it becomes a nuisance or annoyance to residents in the neighbourhood by barking or howling or by obstructing the lawful passage of persons in public places, or by rushing at or frightening such persons.

6.1.3 "**Diseased Dog**" means a dog which is suffering from mange or any other transmittable or contagious condition.

6.1.4 "**Leash**" means an adequate flexible restraint, not exceeding two metres in length.

6.1.5 "**Owner**" in relation to any dog, has the same meaning as in section 2 of the Dog Control Act 1996 and 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 (b) of this definition; and
  - (ii) is a member of the parent or guardian's household living with, and dependent on, the parent or guardian but does not include any person who has seized or

taken custody of the dog under the Dog Control Act 1996, Animal Welfare Act 1999, National Parks Act 1980, or the Conservation Act 1987, or any other order made under this Part of the Bylaw or the Animal Welfare Act 1999.

6.1.6 **"Privateway"** means any way or passage whatsoever over private land within a district, the right to use, which is confined or intended to be confined to certain persons or classes of persons, and which is not thrown open or intended to be open to the use of the public generally; and includes any such way or passage as aforesaid which, at the commencement of this bylaw, exists within the district.

6.1.7 **"Working Dog"** has the same meaning as in section 2 of the Dog Control Act 1996 and means:

- (a) any disability assist dog; and
- (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 other 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 other 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
  - (v) kept by the Department of Corrections or any other officer or employee of that Department solely or principally for the purposes of carrying out the functions, duties, and powers of that Department, or
  - (vi) kept by the Aviation Security Service established under section 72B(2)(ca) of the Civil Aviation Act 1990, or any other officer or employee of that Service solely or principally for the purposes of carrying out the functions, duties and powers of that Service; or
  - (vii) certified for use by the Director of Civil Defence Emergency Management for the purposes of carrying out the functions, duties, and powers of that Service; or

- (viii) 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
- (ix) declared by resolution of the territorial authority to be a working dog for the purposes of [the Dog Control] 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.

## **6.2 RESTRICTIONS ON DOGS IN PUBLIC PLACES**

6.2.1 Schedule 1 contains maps of the District's urban areas describing the restrictions on dogs in public places.

The following restrictions are described:

- (a) Specified public places where dogs are prohibited, whether under control or not;
- (b) Where dogs, other than working dogs, are to be controlled on a leash in specified public places, or in public places in specified areas or parts of the District;
- (c) The regulating and controlling of dogs in any other public place or at certain times;
- (d) Areas specified as Dog Exercise Areas.

## **6.3 DOG EXERCISE AREAS**

6.3.1 The Council may by publicly notified resolution declare any place to be a Dog Exercise Area. For clarity, all beaches are considered to be Dog Exercise Areas with the exception of those areas specifically designated as Dog Prohibited Areas.

6.3.2 Within Dog Exercise Areas, the dog's owner shall ensure that the dog is under continuous and effective control, but shall not be required to keep the dog on a leash.

## **6.4 DOGS IN PUBLIC PLACES**

6.4.1 The owner of a dog shall not cause, permit or allow such dog to enter or remain in or on any part of any street or public place unless the dog is kept under control.

6.4.2 The owner of a dog shall not cause or permit or allow such dog to enter or remain in or on any part of any street or public place within Commercial zoning (shopping centres), unless the dog is confined within a vehicle or other container during the hours specified in Schedule 1.

6.4.3 Outside of the hours specified in Schedule 1, dogs may be taken into restricted areas provided they are kept on a leash while in the restricted areas.

6.4.4 The owner of any dog found in any part of any street or public place in breach of clauses 6.4.1, 6.4.2 and 6.4.3 shall unless the contrary is proved, be deemed to have permitted such dog to have entered or remained thereon.

## **6.5 DOGS PROHIBITED AT SPECIFIED TIMES**

6.5.1 The Council may by publicly notified resolution declare any place to be prohibited to dogs at specified times.

## **6.6 DOG PROHIBITED AREAS**

6.6.1 The Council may by publicly notified resolution declare any place to be a Dog Prohibited Area. These are areas where dogs are prohibited at all times and must not be taken into, under any circumstances.

## **6.7 EXEMPTIONS**

6.7.1 Clauses 6.4, 6.5 and 6.6 shall not apply to any working dog as defined by this Part of the Bylaw.

## **6.8 ACCOMMODATION FOR DOGS**

6.8.1 As a minimum standard, the owner of any dog shall provide for it a weather-proof shelter, kennel or similar accommodation with sufficient space to allow the dog reasonable movement and of sufficient height so that it can stand freely. The floor of the shelter shall be elevated to ensure a dry surface. The shelter shall be kept in a clean and sanitary condition and incorporate access to clean water at all times.

6.8.2 Where any dog accommodation is closer than 3 metres to an adjoining property boundary and is causing or is likely to cause a nuisance, the Council or an authorised officer may require a relocation of the dog accommodation.

## **6.9 IMPOUNDING OF DOGS**

6.9.1 A warranted Dog Control Officer may impound a dog, whether or not it is wearing a collar or has a registration label that is found at large or in breach of any bylaw made by the Whakatane District Council.

## **6.10 DISEASED DOGS AND BITCHES IN SEASON**

6.10.1 The owner of any diseased dog shall not take, permit or suffer the dog to enter or remain in any public place, except when being taken to or from a veterinary clinic.

6.10.2 The owner of any bitch in season shall not take, permit or suffer the dog to enter or remain in any public place, except when being taken to or from a veterinary clinic. Bitches in season shall be kept confined but adequately exercised.



## **6.11 DOGS BECOMING A NUISANCE OR INJURIOUS TO HEALTH**

- 6.11.1 The owner of any dog and the owner of any premises on which any dog is kept shall take adequate precautions to prevent the dog or the keeping thereof from becoming a nuisance or injurious to health.
- 6.11.2 If, in the opinion of the Council or an authorised officer, any dog and the keeping thereof on any premises has become or is likely to become a nuisance or injurious to health, the Council or an authorised officer may by notice in writing, require the owner or occupier of the premises within a time specified in such notice to do all or any of the following:
- (a) Reduce the number of dogs kept on the premises;
  - (b) Construct, alter, reconstruct or otherwise improve the kennels or other buildings used to house or contain the dog or dogs;
  - (c) Require the dog or dogs to be tied up or otherwise confined during specified periods;
  - (d) Take such other action as the Council deems necessary to minimise or remove the likelihood of nuisance or injury to health;
  - (e) Require the owner of any dog (being a dog that, on a number of occasions, has not been kept under control) to cause that dog to be neutered (whether or not the owner of the dog has been convicted of an offence against Section 53 of the Dog Control Act 1996);
  - (f) Require the owner of a dog to attend an approved dog obedience course.
- 6.11.3 Any person to whom notice is given under the preceding provisions of this clause who fails to comply with such notice within the time therein specified shall be guilty of an offence against this Part of the Bylaw.

## **6.12 DOGS IN OR ON VEHICLES**

- 6.12.1 No person shall take a dog on to any public place in a motor vehicle or leave a dog in an unattended vehicle unless that person renders it impossible for the dog to get out of the vehicle.
- 6.12.2 Any person allowing a dog to ride on the open tray of a vehicle shall ensure that it is at all times kept restrained by a chain or rope that is sufficiently short in length as to prevent the dog from leaving the tray or endangering passers-by.

## **6.13 RESPONSIBILITY TO REMOVE FAECES**

- 6.13.1 Where any dog defecates in any public place or private way or land or premises other than that occupied by the owner of the dog, that owner must remove the faeces immediately and dispose of them in a hygienic manner.

## **6.14 AGGRAVATED DOGS**

- 6.14.1 No person shall behave in a manner which causes a dog to become restive or aggravated, whether or not that person is the owner of the dog.

## **6.15 DOG TO BE NEUTERED**

6.15.1 The owner of a dog which has been classified as "Menacing" under Section 33A (1)(b)(i) of the Dog Control Amendment Act 2003 must cause that dog to be neutered within one month of notification of the classification, subject to any right of appeal.

## **6.16 REQUIREMENT TO WEAR REFLECTOR COLLAR**

6.16.1 Every person who is the owner of a dog which has been classified as "Dangerous" under Section 31 of the Dog Control Act 1996, must ensure that the dog wears an approved reflectorised collar at all times when in a public place or private way or on private property except when confined.

## **6.17 PENALTIES**

6.17.1 Every person commits an offence against this Part of the Bylaw who fails, refuses or neglects to do anything required to be done, or does anything prohibited by these bylaws, and is liable to the penalty provisions of the Local Government Act 2002.

**Schedule 1:**

**MAPS**