



# Dog Control Bylaw 2018

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Commencement: 01 July 2018

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# Part 1: Introduction

The Whakatane District Council makes this bylaw in accordance with the Local Government Act 2002 and section 20 of the Dog Control Act 1996.

## **1 Short Title and Commencement**

This bylaw shall be known as the Whakatane District Council Dog Control Bylaw 2018.

This bylaw comes into force on 1 July 2018.

## **2 Revocation**

The Whakatane District Council Consolidated Bylaw Part 6: Dog Control is hereby revoked from the day this bylaw comes into force.

## **3 Purpose**

1. The purpose of this bylaw 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. This bylaw covers matters such as restrictions on dogs in public places, standard of accommodation for dogs and nuisances caused by dogs.
2. The Dog Control Bylaw 2018 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.
3. This bylaw should be read in conjunction with the Dog Control Act 1996 and its subsequent amendments.
4. Schedule 1 contains a series of District maps, which detail the restrictions of dogs in public places, and forms part of this bylaw. Schedule 1 may be amended from time to time by resolution in accordance with section 151(2) of the Local Government Act 2002.

## **4 Interpretation**

In this Bylaw, unless the context requires otherwise:

ACT means the Dog Control Act 1996 and amendments.

ANIMAL CONTROL OFFICER has the same meaning as 'Dog Control Officer' as appointed under section 11 of the Act.

AT LARGE means a dog is free or at liberty in a public place without any physical restraint by the owner, or when on private property, a dog is 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.

BEACH means the foreshore and any adjacent area that can reasonably be considered part of the beach environment including areas of sand, pebbles, shingle, dunes or coastal vegetation.

BYLAW means the Whakatane District Council Dog Control Bylaw 2018.

CONTROL in relation to or having responsibility for any dog, means that the owner, 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 its actions cause 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 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.

COUNCIL means the Whakatane District Council or any Committee, Community Board or elected member of Council or Officer authorised to exercise the authority of the Council.

DANGEROUS DOG means a dog classified in accordance with section 31 of the Act.

DISABILITY ASSIST DOG has the same meaning given to it in section 2 of the Act.

DISEASED DOG means a dog which is suffering from mange or any other transmittable or contagious condition.

DISTRICT means the area within the Whakatane District Council territorial authority boundaries.

DISTRICT PLAN means the operative Whakatane District Plan.

DOG CONTROL FEE means any fee prescribed under section 37 of the Act.

DOG CONTROL OFFICER means a dog control officer appointed under section 11 of the Act and includes a warranted officer exercising powers under section 17 of the Act.

DOG EXERCISE AREA means an area that is designated by Whakatane District Council for use as a place for exercising dogs.

INFRINGEMENT NOTICE has the meaning given to it in section 65(1) of the Act.

LEASH means an adequate flexible restraint, not exceeding two metres in length.

MENACING DOG means a dog classified in accordance with section 33A or 33C of the Act.

NEUTERED DOG means a dog that has been spayed or castrated and does not include a dog that has been vasectomised.

NUISANCE has the same meaning as section 29 of the Health Act 1956, and in relation to a dog's actions, includes but is not limited to:

- (a) Obstructing the lawful passage of any person in a public place or on private property.
- (b) Rushing at, chasing, frightening, intimidating or causing any person in a public place or lawfully on private property to suffer injury or significant distress.
- (c) Destroying, tearing or otherwise interfering with any refuse container, whether the container is on private property or in a public place.
- (d) Interfering with any person's property, whether on private property (other than the owners) or in a public place.
- (e) Rushing at, chasing, frightening, obstructing or causing injury or distress to any stock, poultry, domestic animal or protected wildlife, whether on private property (other than the owners) or in a public place.
- (f) Barking, howling and/or whining in a persistent and loud manner.
- (g) Rushing at any vehicle

OWNER in relation to any dog, has the same meaning as in section 2 of the Act 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 of 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 Bylaw or the Animal Welfare Act 1999.

PREMISES means all land and buildings within a single rating unit.

PUBLIC PLACE means a place that at any material moment, is under the control of Council and is open to or is being used by the public, whether free or on payment of a charge, and includes any Road whether or not it is under the control of Council.

STOCK means:

- (a) any live horse, cattle, sheep, swine, deer, alpaca, llama, bison, donkey, mule, ostrich, emu or any other animal which is herded, mustered or handled in the manner of farm animals or are kept within an effective fence or enclosure for farming purposes; and
- (b) any other animal that Council by resolution from time to time determines to be Stock for the purposes of this Bylaw.

WORKING DOG has the same meaning as in section 2 of the Act 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.

## Part 2: Dog Control

### **5 Restrictions on dogs in public places**

- (1) Schedule 1 contains maps of the District's urban areas describing the restrictions on dogs in public places.
- (2) 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;
  - (c) The regulating and controlling of dogs in any other public place or at certain times; and
  - (d) Areas specified as Dog Exercise Areas.

### **6 Dog exercise areas**

- (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.
- (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.

### **7 Dogs in public places**

- (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.
- (2) The owner of a dog shall not cause or allow any 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.
- (3) The owner of any dog not under control, is deemed to have breached this part of the bylaw.

### **8 Dog prohibited areas**

- (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.
- (2) The Council may by publicly notified resolution declare any place to be prohibited to dogs at specified times.

### **9 Accommodation for dogs**

- (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.

- (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.

## **10 Impounding of dogs**

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

## **11 Diseased dogs and bitches in season**

- (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.
- (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.

## **12 Dogs becoming a nuisance or injurious to health**

- (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 from becoming a nuisance or injurious to health.
- (2) If in the opinion of the Council or an Animal Control Officer, any dog or the premises in which it is kept has become or is likely to become a nuisance or injurious to health, the Council or an Dog Control 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 a dog to be neutered, that has on a number of occasions not been kept under control (whether or not the owner of the dog has been convicted of an offence against Section 53 of the Dog Control Act 1996); or
  - (f) Require the owner of a dog to attend an approved dog obedience course.
- (3) Any person to whom notice is given under the preceding provisions of this clause who fails to comply with such notice within the specified time shall be in breach of this Bylaw.

**13 Dogs in or on vehicles**

- (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 it impossible for the dog to get out of the vehicle.
- (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.

**14 Responsibility to remove faeces**

- (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.
- (2) Owners may not deposit animal faeces in any public place except in a recognised waste or rubbish bin.

**15 Aggravated dogs**

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.

**16 Dog to be neutered**

The owner of a dog which has been classified as "Menacing" under Section 33A (1)(b)(ii) of the Act must have that dog neutered within one month of notification of the classification, subject to any right of appeal.

## Part 3: Other Matters

### **17 Offences and penalties**

- (1) Every person who fails, refuses or neglects to do anything required to be done, or does anything prohibited by this bylaw commits an offence against this Bylaw.
- (2) Every person who commits an offence under this bylaw is liable to a penalty under section 242(4) of the Local Government Act 2002 or section 20(5) of the Dog Control Act 1996.

# Schedule 1: Maps