

ROTORUA DISTRICT COUNCILTHE ROTORUA DISTRICT COUNCIL DOG CONTROL BYLAW 1990POWERS AND AUTHORITIES

The Rotorua District Council hereby makes, by way of Special Order, the following By-law, pursuant to the powers contained in the Local Government Act 1974, The Dog Control and Hydatids Act 1982, The Health Act 1956, and any other Act or Authority in any way enabling the Council in that behalf.

1 Short Title

The short title of this Bylaw shall be the Rotorua District Council Dog Control Bylaw 1990.

2 Commencement

This Bylaw shall come into force in the 9th day of April 1990.

3 Repeal

As from the day that this Bylaw comes into force the Rotorua District Council Bylaw for the Control of Dogs 1979 and its amendments shall be repealed.

4 Interpretation

In this Bylaw, unless the context otherwise requires:-

"Act" means the Dog Control and Hydatids Act 1982.

"Council" means the Rotorua District Council.

"Control" in relation to any dog means that the owner shall have the power of directing or commanding the dog in unforeseen circumstances whether because the dog is on a lead or otherwise.

"District" means the Rotorua District.

"Dog Control Officer" means a dog control officer appointed by the Council under Section 9 of the Act.

"Dog Ranger" means a dog ranger appointed by the Council under Section 13 of the Act.

"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.

"Impound" means to impound in a public pound or in any vehicle used in the transporting of dogs to a public pound.

"Public place" means a place that, at any material time, is open to or is being used by the public, whether free or on payment of a charge, and whether any owner or occupier of the place is lawfully entitled to exclude or eject any person from that place; and includes and applies to every road, street, footpath, footway, court, alley and thoroughfare of a public nature, or open to or used by the public as of right, and to every place of public resort so open or used.

"Owner" in relation to any dog, means every person who:-

- (a) Owns the dog; or
- (b) Has the dog in his possession, whether the dog is at large or in confinement, otherwise than for the purpose of preventing the dog causing damage 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 his household living with and dependent on him -

But does not include any person who has seized or taken custody of the dog under the Act or the Animals Protection Act 1960 or any order made under the Act or the Animals Protection Act 1960, or who has possession of the dog for the purpose of examining or treating the dog for hydatids in accordance with the Act.

"Working dog" means

- (a) Any guide dog or hearing ear dog:
- (b) Any dog -
 - (i) Kept by the Police or any constable, the Customs Department or the Ministry of Defence, or any officer or employee of any such Department of State solely 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 for the purposes of herding or driving stock; or
 - (iii) Owned by an officer or employee of the New Zealand Forest Service or the Department of Conservation and kept solely for the purposes of the employment of that officer or employee; or
 - (iv) Owned by a Pest Destruction Board, or by a persons employed by a Pest Destruction Board, and kept solely for the purposes of destroying pests as defined in the Agricultural Pests Destruction Act 1967; or

- (v) Owned by a security guard as defined in Section 4 of the Private Investigators and Security Guards Act 1974 and kept solely for the purposes of carrying on the business of a security guard; or
- (vi) Declared by resolution of the Council to be a working dog for the purposes of the Act, or any dog of a class so declared by the Council, being a dog owned by any class of persons specified in the resolution and kept solely for the purposes specified in the resolution.

5 CONTROL OF DOGS

- (i) Every dog owner who fails to keep his dog under control at all times commits an offence.
- (ii) Without limiting the generality of subclause (i) of this clause, a dog shall be deemed to be not under control:
 - (a) If it is found at large on any land or premises other than a public place without the consent (expressed or implied) of the occupier or person in charge of that land or those premises; or
 - (b) If it is found at large in any public place in contravention of any regulation or bylaw.
- (iii) Where a dog is not under control in terms of subclause (ii) of this clause, the dog control officer or dog ranger may seize the dog and either return it to its owner or impound it.
- (iv) Notwithstanding the provisions of subclause (ii) of this clause the Council may by resolution permit the exercising of dogs in or on any public place specified in that resolution provided such dogs are kept under continual control and for the purpose of this subclause there shall be deemed to be sufficient control if the dogs are under the continued supervision of a person responsible for the dogs.
- (v) Any resolution made pursuant to subclause (iv) hereof shall be publicly notified in the manner provided by Section 2 of the Local Government Act 1974.
- (vi) A dog owner shall not allow his dog to enter or remain in or on any part of any camping ground operated under the jurisdiction of the Council unless he has first obtained its written consent.
- (vii) All dogs are prohibited from the following areas:
 - (a) Any public building under the control of the Council.
 - (b) Any public baths or other bathing places owned or controlled by the Council.
 - (c) Any reserve or public reserve within the meaning of the Reserves Act 1977.
 - (d) Any cemetery.

- (e) Any airport.
- (f) Any schools and kindergartens including play areas.
- (g) Those areas zoned Commercial 1-8 by the Rotorua District Scheme together with that portion of any roadway of footway fronting such areas.
- (viii) None of the prior subclauses of this clause shall apply to a guide dog, a hearing ear dog or a dog owned or used by the New Zealand Police or a Security Guard.

6 OBLIGATIONS OF DOG OWNER

- (i) A dog owner shall ensure that:
 - (a) The dog receives proper care and attention and is supplied with proper and sufficient food, water and shelter;
 - (b) the dog receives adequate exercise;
 - (c) The whole of any kennel or run is maintained in a sanitary condition at all times so as to prevent the creation of any nuisance or state which is injurious to public health. Without limiting the generality of the foregoing, the whole of any kennel or run must be cleaned at least once a day and disinfected at least once a week.
- (ii) For the purposes of subclause (i)(a) of this clause, proper and sufficient shelter shall comprise a weatherproof kennel or place of confinement constructed on dry ground. In the case of a kennel without other means of confinement, it shall have a fixed chain which allows the dog free movement about the kennel. The kennel or place of confinement shall have access to clean water. The standards for shelter imposed by this subclause may be waived in any particular case where a dog owner provides proper and reasonable evidence that his dog is normally housed within the confines of a dwelling house or other suitable building.
- (iii) Every dog owner who keeps his dog beneath the bottom or ground floor of a residential building commits an offence.
- (iv) Every dog owner who keeps his dog in any kennel or run which is closer than two (2) metres from any open drain, water course, lake or boundary of any premises commits an offence.
- (v) Every dog owner who keeps his dog in any kennel or run which is not further than nine (9) metres from any residential dwelling on a neighbouring property commits an offence.

7 CONFINEMENT OF DOGS AT NIGHT

Every dog owner who fails to keep his dog securely tied up or otherwise confined or under his direct control during the period commencing not earlier than half an hour after sunset on each day and ending not later than half an hour before sunrise on the next day commits an offence.

8 FOULING IN PUBLIC PLACES

Every dog owner who fails to immediately remove from any public place faeces deposited by his dog commits an offence. If the dog owner places such faeces in a public litter bin or similar public receptacle, the faeces must be suitably wrapped or contained in order to prevent fouling of such litter bin or receptacle.

9 FEMALE AND DISEASED DOGS

No dog owner whose dog is infected with any disease including mange or distemper or whose dog is a bitch in season shall take his dog onto any street or public place or allow his dog to go onto and remain there.

10 AGGRAVATION OF DOGS

Every person who behaves or acts in such a way as to aggravate any dog in any public place so that it becomes restive or unmanageable commits an offence.

11 NUISANCES

(i) Every dog owner commits an offence if he fails to:

- (a) Take adequate precautions to prevent the dog from becoming a nuisance or injurious to public health;
- (b) Take such steps as are necessary to prevent his dog from becoming a nuisance or annoyance to residents in the neighbourhood by barking and howling or by obstructing members of the public going about their lawful business in public places or by rushing at and frightening members of the public.

(ii) If in the Council's opinion any dog or the keeping of that dog on any premises has become or is likely to become a public nuisance or injurious to public health, it may give written notice to the dog owner requiring all or any of the following things to be done within a time specified in such notice:

- (a) Reduce the number of dogs kept on the premises; or
- (b) Require the dog, or such greater number of dogs as Council may specify, to be tied up or otherwise confined during specific periods; or
- (c) Take such other action as the Council deems necessary to minimise or remove the likelihood of public nuisance or injury to public health.

(iii) Any dog owner to whom notice is given under subclause (ii) of this clause who fails to comply with the notice within the time therein specified commits an offence.

12 LIMITATION OF NUMBER OF DOGS ON ANY LAND OR PREMISES

(i) No dog owner shall keep or allow to be kept more than two (2) dogs for any period exceeding thirty (30) days on any premises within the Urban Zones or the Rural 4 Zone or the Rural 5 Zone of the Rotorua District Scheme unless he has obtained a Licence

to do so from the Council.

- (ii) The Licence shall be in the form contained in the First Schedule to this Bylaw, and may contain such terms, conditions or restrictions as the Council may deem fit to impose in any particular case.
- (iii) If the Licence is breached in any way, it may be revoked by the Council at any time.
- (iv) Every application for a Licence shall be submitted in writing on the prescribed form addressed to the Council and signed by the applicant. Before issuing a Licence, the Council may request the applicant to give to it such further information as it may reasonably require. At the time an application for a Licence is made to the Council, the applicant shall pay the application fee stipulated in the Second Schedule to this Bylaw or as the same may from time to time be varied.
- (v) Every dog owner who breaches any of the terms, conditions or restrictions contained in the Licence issued to him by the Council commits an offence.

13 IMPOUNDING

- (i) A dog control officer or dog ranger may impound a dog, whether or not it is wearing a collar having the proper registration label or disc thereon or attached thereto, found at large in any public place in breach of any of the other provisions of this Bylaw.
- (ii) Council may require any dog owner whose dog is impounded to pay the impounding fee together with a daily sustenance fee for the dog during the period that it is impounded as such fees are stipulated in the Third Schedule to this Bylaw and as may from time to time be varied.

14 DISPOSAL OF IMPOUNDED DOGS

Where any dog is impounded under this Bylaw and:

- (a) It is not claimed by the dog owner and all fees are not paid to Council within seven (7) days after receipt by the dog owner of either written or oral notice of the impounding; or
- (b) Its owner is unknown to the Council or can not be found within seven (7) days of the impounding; then

the dog may be destroyed by the Council or sold by the Council to any person who shall thereupon be the lawful owner of the dog. Such destruction or sale shall not relieve the person who was the dog owner before the dog's destruction or sale of liability for any offence under this Bylaw or for payment of any fees payable under this Bylaw.

- (c) Any dog which is so diseased or so injured or so sick or otherwise in such a condition that in the opinion of the dog control officer or dog ranger it may suffer by being kept alive may be destroyed.

15 OFFENCES AND PENALTIES

- (a) Every person who breaches any duty imposed upon him by any of the provisions of this Bylaw, or who fails to give information or knowingly gives false information to any officer of the Council authorised under this Bylaw, commits an offence and shall be liable on summary conviction to a fine not exceeding \$500.00.
- (b) Where the offence is a continuing one, such person shall also be liable to a further fine not exceeding \$50.00 for every day or part of a day during which the offence has continued.

16 DISPENSING POWER

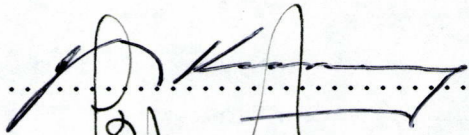
Where in the opinion of the Council:

- (a) A full compliance with any of the provisions of this Bylaw would needlessly and unfairly affect any person; or
- (b) Needlessly and unfairly affect the business operation of any such person; or
- (c) Cause undue loss or inconvenience to any person without any advantage to the public; then -

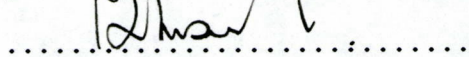
In any such case or cases the Council may, on the special application of any such person so affected and subject to a report thereon by the officer of the Council usually or for the time being charged with the control or administration of that aspect of dog control in question, by resolution (the power to so dispense being hereby reserved) dispense with the observance or performance or relax the strict observance or performance of any of the provisions of this Bylaw, or otherwise modify the same. Any such dispensation, relaxation or modification shall not relieve such person from his obligation to comply with the provisions of this Bylaw as so varied.

The foregoing Bylaw was made by Special Order passed at the Ordinary Meeting of the Rotorua District Council held on the 20th day of February 1990 and meanwhile having been publicly notified in the Rotorua "Daily Post" newspaper by advertisements appearing on the 24th day of February 1990 and 14th day of March 1990 was duly confirmed at a subsequent Ordinary Meeting of the Council held on the 27th day of March 1990.

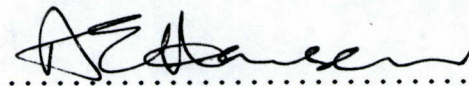
IN WITNESS WHEREOF the)
COMMON SEAL of the)
ROTORUA DISTRICT COUNCIL)
was hereto affixed in)
the presence of:)



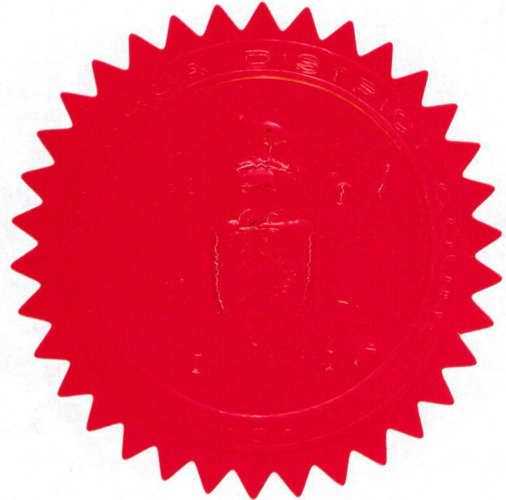
..... Mayor



..... Councillor



..... District Manager



THE ROTORUA DISTRICT COUNCIL
DOG CONTROL BYLAW 1990
