



NAPIER CITY

DOG CONTROL

BYLAW 2004

Date Adopted:
Reviewed:

1st July 2009
21 May 2014

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NAPIER CITY DOG CONTROL BYLAW 2004

A Bylaw of the Napier City Council made in pursuance of the powers contained in the Dog Control Act 1996 and the Local Government Act 2002.

1. SHORT TITLE AND COMMENCEMENT

This bylaw shall be known as "The Napier City Dog Control Bylaw 2004" and shall come into force on Friday 1st October 2004.

2. SCOPE

The bylaw is made primarily under the authority of Section 20 of the Dog Control Act 1996.

The primary purpose of the bylaw is to enhance the safety of the public and children by minimizing the distress, nuisance and intimidation caused by dogs to the community, avoiding the inherent danger of uncontrolled dogs in public places and to provide dogs and their owners with the ability to satisfy their recreational needs, as far as is practicable through legislative means.

3. DEFINITIONS

In this Bylaw unless inconsistent with the context:

AUTHORISED OFFICER means a warranted Dog Control Officer or Dog Ranger or a person so warranted pursuant to the Local Government Act 2002.

COUNCIL means the Napier City Council.

OWNER in relation to any dog includes every person who:

- (a) Owns the dog
- (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 dependent on the parent or guardian.

but does not include any person who has seized or taken custody of the dog pursuant to any other Act.

PUBLIC PLACE (a) 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

- (b) includes any aircraft, hovercraft, ship or ferry or other vessel, train, or vehicle carrying or available to carry passengers for reward.

WORKING DOG means a working dog as defined by the Dog Control Act 1996.

4. LIMITATION OF NUMBER PERMITTED

- 4.1 Except with the written permission of Council and save as provided by Sub-Clause 4.2 hereof no person shall in the City permanently keep or harbour or suffer to be kept or harboured or have in his permanent care more than two (2) dogs of a greater age than three months on any individual property or premises.
- 4.2 This clause shall not apply:
 - (a) In any area for the time being zoned as rural under the City of Napier District Plan.
 - (b) To any working dog.

5. CONTROL OF DOGS

- 5.1 The owner of any dog shall keep and prevent the same from wandering or being at large in any public place without the proper control provided for in this Bylaw.
- 5.2 The owner of any dog other than a working dog shall at all times keep such dog:
 - (i) Under continual control while in any public place and for the purpose of this clause there shall be deemed to be continual and sufficient control if the dog is under continual surveillance of a responsible person and is at all times readily at call by that person; or
 - (ii) On a leash or chain held by such owner and securely attached to a collar on such dog; or
 - (iii) Tied by a leash or chain which is securely attached to a collar on such dog; or
 - (iv) Confined in an enclosed yard so that such dog cannot escape therefrom; or
 - (v) Confined in a kennel, shed erection, vehicle or such other place of confinement so that such dog cannot escape therefrom.
- 5.3 The owner of a dog shall not keep or suffer it to be kept on any premises if in the opinion of an authorized officer it is causing or has caused a nuisance or annoyance to any other person by barking or howling or otherwise.
- 5.4 The owner of a dog shall not keep or suffer it to be kept on any premises if it is causing or has caused damage to the real or personal property of any other

person.

- 5.5 During the period mentioned in Clause 5.2 hereof the owner of a dog so tied-up or confined as aforesaid shall ensure that the said dog is provided with adequate shelter and that no unnecessary suffering is caused to such dog by the manner of tying up or confinement.
- 5.6 Every place of confinement for any dog shall be provided with satisfactory secure locking arrangements on the door and be kept in a clean and sanitary condition.

6. PROHIBITED AREAS

- 6.1 The owner of any dog other than a working dog shall not cause, allow, permit or suffer it to enter or remain in any of the following places:
- (a) Those places described in the First Schedule hereto or added to as in Sub-Clause 6.1 (b).
 - (b) Any roads or streets or places from time to time specified by resolution of the Council of which resolution public notice has been given with power for the Council from time to time to amend or vary the list of places set forth in the said First Schedule or any other roads, streets, or places so specified, provided that the provisions of this Bylaw shall not affect any such road or street or place other than those set forth in the First Schedule until the expiration of a period of 14 days after the date of publication in a newspaper circulating in the district of the effect of any resolution of the Council passed as aforesaid.
 - (c) Any recreational buildings owned or controlled by the Council.
- 6.2 The owner of any dog found in any place or any part of any street or public place described in the First Schedule hereto shall unless the contrary is proved be deemed to have caused, permitted or allowed such dog to have so entered or remained in such place, street, public place or prohibited area.

7. CONTROLLED AREAS

- 7.1 The owner of any dog other than a working 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 described in the Second Schedule hereto unless such dog is kept under continuous control while there by an effective lead, or being carried in a vehicle.
- 7.2 The owner of any dog found in any part of any place, street or public place described in the Second Schedule hereto without such dog being kept under continuous control as aforesaid while in such street, place, or public place shall unless the contrary is proved be deemed to have caused, permitted or allowed such dog to have so entered or remained in such place, street, or public place.

8. DOG EXERCISE AREAS

- 8.1 Those places described in the Third Schedule hereto will be designated as dog exercise areas for dogs without leads providing the dog is under continual control of a responsible person and is at all times readily at call by the person.

9. ADDITIONAL CONTROLS REQUIRED

- 9.1 No person:

- (a) Other than a Police Officer in charge of a police dog, in any public place shall set on, urge, encourage, aid or assist any dog to rush at any person, animal or vehicle, or to attack or worry any person or animal or being the owner of any dog, which has been known to rush at any person, animal or vehicle or attack any person or animal suffer such dog to be at large in any public place within the City.
- (b) Being the owner of any mangy or diseased dog or any female dog on heat shall, save in a motor vehicle, or for the specific purpose of taking the dog on a leash to a place for treatment or service, take the same into or permit or suffer the same to enter or remain in any public place within the City.
- (c) Being the owner of any dog shall take the same or permit or suffer the same to enter or remain in any public place not described in the First or Second Schedules hereto or in any area prohibited by resolution publicly notified pursuant to Clause 6 of this Bylaw unless such dog is while there continually kept under proper control and for the purpose of this clause there shall be deemed to be continual and proper control if the dog is under continual surveillance of a responsible person and is at all times readily at call by that person or is controlled by an effective lead or other effective means.

10. PREVENTION OF NUISANCES

- 10.1 The owner or occupier of any premises whereon any dog or dogs are customarily kept shall take adequate precautions to prevent the keeping of such dogs from becoming a nuisance or injurious to health.
- 10.2 If in the opinion of an authorized officer the keeping of such dogs on such premises has become or is likely to become a nuisance or injurious to health the authorized officer may by notice require the owner or occupier of such premises to do all or any of the following:
- (i) To reduce the number of dogs kept on the premises.
 - (ii) To construct, alter, reconstruct, or otherwise improve the kennels or other buildings used to house or contain such dog or dogs.
 - (iii) To require such dog or dogs to be tied up or otherwise confined during specified periods.
 - (iv) To take such other action as the authorised officer deems necessary to minimise or remove the likelihood of nuisance or hazard or injury to health.

10.3 If the authorized officer is of the opinion that the keeping of dogs on any premises is or is likely to become a nuisance or injurious to health he may by notice to the occupier of those premises prohibit the keeping of dogs on those premises.

10.4 Any person to whom notice is given under the preceding provision of this clause who fails to comply with such notice within the time therein specified commits an offence against this Bylaw.

11. DOG DEFECATION

11.1 The owner of any dog that defecates in any public place or on land or premises other than that occupied by the owner shall immediately remove the faeces and dispose of them in a hygienic manner.

12. DOG HOSPITALS, BOARDING AND BREEDING KENNELS

12.1 No person shall establish or maintain any hospital, boarding or breeding kennels for dogs except on a site approved by the Council by resolution in that behalf and subject to such conditions as the Council may impose. For the purposes of this clause the expression hospital, boarding or breeding kennels shall include any establishment where dogs of a greater age than three months are accommodated whether for reward or payment or not, for the purposes of treatment, custody, breeding or whelping and shall also include any establishment where dogs are accommodated for such purposes not being dogs registered in the name of the person in charge of such hospital, boarding or breeding kennels.

13. SEIZURE OF ROAMING DOGS

13.1 Any dog found at large in any public place at any time in contravention of this Bylaw or any other Bylaw made by Council under any other Act, whether or not it is wearing a collar having the proper registration label or disc thereon or attached thereto, may be seized and impounded by any authorized officer.

14. RELEASE FROM POUND

14.1 No dog shall be released from any pound of the Council unless;

- (i) Proof of ownership and identity of the dog is established; and
- (ii) All applicable fees determined by resolutions of the Council are paid; and
- (iii) In the case of any dog three months of age or over the current annual registration fee payable under the Dog Control Act 1996 is paid, or arrangements are made for payment, unless such fee has previously been paid.

15. UNLAWFUL REMOVAL FROM POUND OR COUNCIL VEHICLE

15.1 It shall be an offence for any person to remove any dog from any pound or Council vehicle without the approval of an authorised officer and then only in

accordance with Clause 14.

16. GUIDE DOGS FOR THE BLIND, HEARING EAR DOGS AND COMPANION DOGS

16.1 Nothing in this Bylaw shall be or shall be deemed to be contrary to the provisions of Section 75 of the Dog Control Act 1996.

17. DISPENSING POWER

17.1 Where in the opinion of the Council a full compliance with any of the provisions of this Bylaw would needlessly or injuriously affect any person or persons or the course of operation of the business of or be attended with loss or inconvenience to any person or persons without any corresponding benefit to the community then and in any such case or cases the Council may, on the special application of any such person or persons so affected and following any report from the officer of the Council usually or for the time being charged with the control or administration of the particular provisions of this Bylaw affected 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, provided that such terms or conditions (if any) as the Council may deem fit to impose shall be complied with by such person or persons as aforesaid.

18. OFFENCES

18.1 Any person who acts in breach of the bylaw commits an offence and is liable upon summary conviction to a fine not exceeding \$20,000 as provided for under the Local Government Act 2002.

19. SAVINGS

19.1 All acts of authority which originated under the Napier City Consolidated General Bylaw 1983 Chapter 12 Control of Dogs hereby repealed and all applications and other acts of the parties and generally all documents, matters, acts and things which so originated and are of continuing effect at the coming into operation of this Bylaw shall ensure for the purposes of this By-law as if they had originated under this Bylaw and shall where necessary be deemed to have so originated.

The foregoing bylaw was duly made by the Napier City Council by a resolution passed on 23 June 2004 and was confirmed following consideration of community submissions received during a special consultation procedure, by resolution passed on 1 September 2004. The said Napier City Dog Control Bylaw 2004 was ordered to come into force on 1 October 2004.

Sealed with the Common Seal of the
NAPIER CITY COUNCIL
In the presence of:

_____ *Mayor*

_____ *Chief Executive*

FIRST SCHEDULE – PROHIBITED AREAS (CLAUSE 6)

- (a) City of Napier Civic Building, Public Libraries, Public Swimming Pools, Paddling Pools, Kennedy Park Motor Camp.
- (b) Children's playing areas under the control of the Council.
- (c) Within the boundaries of all playing areas under the control of the Council set aside and patently prepared for organised games or sports and all other areas zoned as Sports Parks in the City of Napier District Plan including McLean Park, Nelson Park, Whitmore Park, Marewa Park, Taradale Park, Bledisloe Park, Maraenui Park, Park Island, Onekawa Park, Petane Domain, Tareha Recreation Reserve.
- (d) All places where any notice prohibiting dogs is displayed.
- (e) The whole of the West Shore Wildlife Reserve, and that part of the Ahuriri Estuary Wildlife Refuge Park area below the MHWS (Mean High Water Springs) mark.
- (f) All of the area known as Lagoon Farm that is controlled by Napier City Council and the estuary stop bank pathways.

SECOND SCHEDULE – CONTROLLED AREAS (CLAUSE 7)

- (a) The streets fronting the areas contained within the Commercial Sub-district, Taradale Retail Zone, and all other Local Retail Zones in the City of Napier District Scheme and all public places within these zones.
- (b) All public parks, public carparks, public reserves and beach reserves (excluding those mentioned in the First and Third Schedules) owned or under the control of the Council, and the parts of the parks, reserves and beach reserves mentioned in the First and Third Schedules which are excluded from that Schedule.
- (c) The streets fronting all schools 50 meters either side of the principal school entrance during schooldays.
- (d) All that part of the Ahuriri Estuary Wildlife Refuge and Department of Conservation land area, from the boundary of the mowed grass area to the MHWS (Mean High Water Springs) mark and all of the boardwalk and all formed tracks within, and, all of the Humber Street City Council reserve and associated beach area to the MHWS.
- (e) All that area of beach and foreshore on the eastern side of Marine Parade extending southwards from the Port entrance to the Aquarium.
- (f) All that area on the seaward side of Nelson Quay and Hardinge Road, from the Sports Fishing Club including Perfume Point and Spriggs Park to a point opposite the eastern junction with Raglan Street, (except the childrens play area which shall remain a prohibited area).
- (g) All that area of beach and foreshore on the seaward side of Whakarire Avenue, Charles Street, North Terrace, Ferguson Avenue, and south of the public toilets on the Esplanade.

THIRD SCHEDULE – DOG EXERCISE AREAS (CLAUSE 8)

- (a) The Reserve running between Taradale and Kennedy Roads (beside Riverbend Road).
- (b) The continuation of the Taradale/Kennedy Road greenbelt between Nash Street and Willowbank Avenue, and the continuation of this greenbelt to and including Te Awa Park.
- (c) The Plantation Reserve running from Henry Hill School to Taradale Road.
- (d) The Drainage Reserve running around Westminster Avenue.
- (e) Riverside Park behind the Pettigrew-Green Arena.
- (f) Sturms Gully Reserve.
- (g) The area in Anderson Park on the northern side of the ponds and waterways bounded by York Avenue and Freyberg Avenue, including the strip of green belt from Taradale Road alongside Islington Place to Freyberg Avenue.
- (h) Alexander Park from Taradale Road to Te Awa Park but excluding the area from Herrick Street to Kennedy Road.
- (i) All that area of beach and foreshore, known as Beach Domain on the seaward side of State Highway 2 from the Aquarium southward to the City boundary.
- (j) All that area of beach and foreshore on the seaward side of the Esplanade and the Napier/Gisborne railway line from the public toilets on The Esplanade foreshore northward to the City boundary.
- (k) The land around the base of Western Hills and Park Island cemeteries bounded by the northern-most boundary of the soccer and cricket grounds, Clyde Jeffrey Drive and the waterways, including all the walkways therein.
- (l) The reserve between the south side of Atherfold Crescent, Spriggs Crescent and Perry Crescent and north of the motorway culvert.
- (m) Ahuriri Reserve
- (n) All of the Taipo Stream Reserve from Willow Drive through to Church Road.
- (o) All that part of the Ahuriri Estuary Wildlife Refuge Park and Department of Conservation grassed area that the Council maintains and keeps mown, that runs from the Pandora ridge in the south to the wooden barriers adjacent to the vehicle park area in the North, and includes all of the old Embankment road area, to the bridge over the Estuary channel.