

ASHBURTON DISTRICT COUNCIL - POLICY IN RESPECT OF DOGS

Bylaws

Chapter 7 of the Ashburton District Bylaws details requirements relating to dogs and a full copy of that Chapter of the Bylaw is in Appendix 1.

POLICY 1

Public Places where Dogs are Prohibited

The First Schedule, Part A, of the Bylaw details those areas where dogs are prohibited and these are:

1. All cemeteries throughout the District.
2. All children's playground areas and paddling pool areas within the District
3. In any Public Library
4. Lake Clearwater Hut area

POLICY 2

Public places where Dogs are required to be controlled and on a leash

The First Schedule, Part B, of the Bylaw details where dogs are permitted on a lead.

Areas where Dogs are permitted only if on a hand-held leash

All public places in any urban area other than those areas detailed in Part C of the First Schedule of the Bylaw.

POLICY 3

Areas where Dogs may be exercised at large but under the direct control of their owners

The First Schedule, Part C, of the Bylaw details where dogs are permitted to be exercised at large.

1. All public places in other than urban areas excepting that, through Reserve Management Plans, this Bylaw authorises Management Boards to establish separate and independent dog control policies non compliance with which shall be an offense under this Bylaw.
2. The area adjacent to the main south railway line north of the Ashburton River bridge and known as "The Green".
3. Pioneer Park.
4. Digby Park.
5. Patching Street Reserve (excluding children's play area).
6. Devon Park (excluding children's play area).
7. George Glassey Park (excluding children's play area).
8. Smallbone Drive Reserve

POLICY 4

Registration Fees

- a) Council dog registration fees shall be based on the actual total cost of this service.

b) The funds required for dog control activities shall be fully funded from annual registration fees.

- c) For the purposes of registration fees dogs shall be classified as either:
- Rural Control
 - Urban Control
 - Selected Owner
- d) A “selected owner” can be achieved by meeting and maintaining standards defined by Council

POLICY 5

Impounding Fees

That fees will be reviewed on an annual basis.

POLICY 6

Council Dog Pound - Policy for release of unclaimed dogs

That an unclaimed dog may be released to any person:

- a) If the person is considered by the Dog Control Officer to be a suitable person.
- b) Provided that the dog is registered prior to or upon its release.
- c) No impounded dog shall be released to an organisation for research purposes.

POLICY 7

Pound Operation - Release of Dogs to Owner

That dogs shall only be released from the pound under the following circumstances:

1. All fees must be paid prior to release.
2. The dog owner must satisfy the officer that he is the rightful owner of the dog or has been duly authorised by the owner to act in that capacity.
3. Release shall only be by pre-arranged appointment.

In all cases the officer must endeavour to be at the pound prior to the owner.

POLICY 8

Legal Action

That Council is concerned to ensure that owners and dogs causing nuisance or distress to residents are firmly dealt with. It shall be Council policy that legal action be taken for offences against the Act and/or the Council Dog Control Bylaw.

In all cases delegated authority is given to the Chief Inspector as to whether in any specific cases it is appropriate to proceed with legal action.

Where appropriate infringement notices shall be first action taken.

POLICY 9

Infringement Notices

Council policy in respect of infringement notices:

That in general terms infringement notices shall be issued when officers note an infringement offense being committed.

In cases where the infringement offense is “keeping an registered dog” Council policy shall be that any dog owner issued with an infringement notice for non registration shall have the infringement penalty fee waived if the dog concerned is registered within 14 days of the date of the infringement offence notice.

Provided that any owner who has failed to register a dog for the current year and the immediate past year shall not be entitled to the above penalty fee waiver. Neither shall a person issued with an infringement notice for non registration in the previous year be entitled to waiver of penalty fee.

POLICY 10

Dogs biting persons

That in all cases where the victim was about their lawful business, the Council will instigate legal action against the dog owner or person in charge of the dog at the time of the offence. A written statement of complaint is required from the complainant. The Court may be asked for a destruction order.

Note: A destruction order is provided for under both s57(5) and s57(6) of the Dog Control Act. Prosecution under s57(5) is the equivalent of Council seeking a destruction order.

POLICY 11

Dogs attacking or rushing

That unless there are extenuating circumstances the same will apply as for biting dogs. The dog may be declared a dangerous dog (see Policy 14) unless the dog had offended previously in which case a destruction order may be requested.

Note In line with Policy 9, an infringement notice would, where appropriate, be the action taken.

POLICY 12

Barking Dogs

That where people are being disturbed by persistent prolonged barking, and have where possible obtained signatures of at least two further people from different addresses, the District Council will write to the dog owner advising of the complaint.

If the investigating officer(s) is satisfied that the complainant's property is the only property likely to be affected a complaint from a single resident (residence) will be accepted. A Dog Control Officer will visit the dog owner confirming the letter and endeavour to establish if the complaint is justified giving the owner reasonable time to improve the situation. If after a specified time the problem continues, a notice will be issued to the dog owner requiring the dog to be removed from the property. If the notice is not complied with legal action will be taken. [Note rights of appeal and consequent hearing by Council Committee].

POLICY 13

Wandering Dogs

That where a dog is seen by a ranger or Dog Control Officer to be wandering in a public place, the Officer will seize and impound the dog. The dog will only be released on payment of the stipulated fee. If it is not possible to seize the dog it will be followed to its place of residence and the owner spoken to in an endeavour to obtain an admission of ownership. Legal action will then be taken against the owner under the District Council bylaws. Legal action may be either court action or the issuing of an infringement notice.

POLICY 13

Dangerous Dogs

That the Chief Inspector be delegated authority to act as he considers necessary in regard to S31 of the Act (Dangerous Dogs).

Dogs may be classified as dangerous by the Council and have restrictions placed on them for the following reasons:

- If the owner has been convicted for allowing the dog to rush out at or attack a person, vehicle or domestic animal in a public place.
- Where there is worn evidence that the dog has been aggressive.
- Where the aggressive behaviour of any dog constitutes a threat to the safety of any person, stock, poultry, domestic animal, or protected wildlife.
- Where the owner admits that the dog is dangerous.

Effects of Classification

- The property must be fenced to keep the dog in and allow access to a door. The fencing must be completed within 1 month of notification of the classification.
- A Veterinary Certificate must be produced within one month of classification certifying the dog has been neutered.
- The dog must be muzzled while in a public place or private way unless it is confined within a cage or vehicle.
- The registration fee is 150% of the normal level.
- The dog cannot be given or sold to another person without the consent of the Council
- This classification extends throughout New Zealand.

POLICY 15

Probationary Owners

That the Chief Inspector be delegated authority to act as he considers necessary in regard to S21 of the Act (probationary owners). This classification is imposed where:

- An owner is convicted of any offence against this Act that is not an infringement offence.
- The owner is convicted of any offence concerning the care of a dog under the Animal Protection Act 1960.
- The owner is convicted of any offence under the Conservation Act 1987 or the National Parks Act 1980 in relation to dogs.
- The owner commits 3 or more infringement offences within a continuous 24 month period.

Effects of Classification

- The classification will continue for 24 months, unless the District Council reduces the time.
- The owner will not be able to keep or register any other dogs other than the ones present at the time of the classification.
- The owner will be required to pay a 50% surcharge on the normal registration fee during the period classification.
- The owner may appeal to the District Council in writing against the classification.
- The classification extends over the whole of New Zealand. This means that if an owner moves to another District the classification will still be in force.

POLICY 16

Disqualification of Owners

That the Chief Inspector be delegated authority to act as he considers necessary in regard to S25 of the Act (disqualification).

The Dog Control Act allows for the Council to disqualify any person from being the owner of any dog in certain circumstances.

Owners can be disqualified from owning a dog for up to 5 years for the following reasons:

- If they are convicted for any offence under the Dog Control Act 1996, the Conservation Act 1987, the National Parks Act 1980, or the Animal Protections Act 1960 while they are classified as probationary owners.
- If the owner commits 2 infringement offences while they are classified as probationary owners.

Effects of disqualification

- All dogs owned by a disqualified owner must be disposed of within 14 days of notification.
- The dog/s cannot remain at the same address as the disqualified owner.

- The classification extends over the whole of New Zealand. This means that if the owner moves to a different District, the disqualification follows him.
- The owner can appeal in writing to the District Council. If he is not satisfied with the finding the owner may appeal to the District Court.

POLICY 17

Criteria for licences allowing three or more dogs to be kept on a property

A Dog owner wishing to keep more than two dogs on a residentially zoned property shall be required to meet responsible dog owner standards to the satisfaction of the Dog Control Officer.

POLICY 18

Conservation Act 1987 - National Parks Act 1980

The Conservation Act 1987 and the National Parks Act 1980 detail requirements in respect of dogs. There are no National Parks within the Ashburton District.

POLICY 19

Welfare of dogs

Although the responsibility for the welfare of dogs is not the a prime responsibility imposed on Council by the Dog Control Act 1996 the Council charges its officers with a duty to ensure that animal welfare is part of any inspection work carried out by officers. Matters to be considered by officers shall include but not be restricted to:

- Supply of adequate dry and clean housing
- Supply of adequate water and food
- Freedom from injury or infection - or receiving treatment if appropriate
- Legal action being taken when the above are not observed
- Refer cases of neglect or cruelty to an appropriate agency

APPENDIX I

ASHBURTON DISTRICT COUNCIL BYLAW

CHAPTER 7

CONTROL OF DOGS

Scope

This Bylaw is made under the provisions of the Bylaws Act 1910, Part XLIII of the Local Government Act 1974 and Section 20 of the Dog Control Act 1996.

The purpose of this Bylaw is to set standards of control which must be observed by dog owners. It covers matters such as dogs in public places, wandering dogs, ownership of more than two dogs and nuisances caused by dogs.

It should be realised that this bylaw is not the only or major document regulating the control of dogs and the actions of dog owners. The Dog Control Act 1996 also addresses various issues such as registration, dangerous dogs, barking dogs, dogs attacking people or stock and other matters. Both this bylaw and the Dog Control Act 1996 make provision for legal action and consequent fines.

7.1 Interpretation

701.1 In this Bylaw:-

COMPANION DOG means a dog certified by the Top Dog Companion Trusts as being a companion dog or a dog under training as a companion dog.

DANGEROUS DOG means

- (a) Any dog in respect of which the owner has been convicted of an offence under Section 57 (6) of the Dog Control Act 1996.
- (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.

DOG CONTROL OFFICER means a dog control officer appointed under Section 11 of the Dog Control Act 1996.

DOG RANGER means a dog ranger appointed under Section 7 of the Dog Control Act 1996 and includes an honorary dog ranger.

Dog includes any dog male or female whether or not spayed or neutered.

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 dependent 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 Animals Protection Act 1960 or the National Parks Act 1980 or the Conservation Act 1987 or any order made under this Act or the Animals Protection Act 1960.

WORKING DOG means-

- (a) Any guide dog, hearing ear dog, or companion dog:
- (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 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) 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.

702 Exclusions

- 702.1 Nothing in this bylaw shall apply to any working dog, as defined herein, while being used for the purpose of carrying out any lawful function, duty or power.
- 702.2 Nothing in this bylaw shall prohibit any dog certified as a hearing ear dog or seeing eye dog or guide dog while acting in that capacity from entering any premises or area where dogs are otherwise prohibited from being under the provisions of this bylaw.

703 Dogs to Be Kept Under Control at all Times

- 703.1 The owner or any person in charge or having control of any dog, shall, keep such dog securely tied up or otherwise effectively confined or under his direct control.

704 Control of Dogs on Private and Public Property

- 704.1 Every owner of a dog shall ensure that the dog is provided with adequate food, water and shelter and that no unnecessary suffering is caused to the dog by the manner of the shelter.
- 704.2 Any person shall be guilty of an offence against this bylaw if they fail to keep any dog under continuous and effective control.

705 Fencing of Private Property Where Dog is Considered Dangerous

- 705.1 Where any Council Officer considers a dog to be a dangerous dog or a dog which constitutes a threat to any person that Officer may require the owner of the dog to construct a fence, including appropriate gates, of adequate materials and dimensions so as to ensure that the dog is contained within the property or part of the property. The owner shall be notified in writing of any requirement under this clause and such notice must indicate a date by which the notice shall be complied with.
- 705.2 Such fencing must allow visitors unimpeded access to at least one entrance to any dwelling on the property.

- 705.3 Where fences already exist the officer may require such upgrading or alteration as is considered necessary, in the officer's opinion, to achieve security of a dog within a property or to satisfy the requirements of Clause 705.2 of this bylaw.
- 705.4 Any person who fails to comply with a decision given by an officer under the provisions of this section requiring that person to construct, repair or alter a fence shall have committed an offence under this bylaw.

706 Limitation as to Number of Dogs to be Kept

- 706.1 No occupier of any property in any urban area within Ashburton District shall allow or cause to remain or keep on such premises for any period exceeding fourteen days, three or more dogs, over the age of three months (whether or not such dogs are registered) unless such occupier shall be the holder of a licence for such purpose from the Council.
- 706.2 Such licence may be issued upon or subject to such terms, conditions or restrictions as the Council may consider necessary and any breach of such terms, conditions or restrictions shall be a breach of this bylaw and will result in cancellation of the licence.
- 706.3 Any person desiring to allow or cause to remain or to keep three or more dogs on any premises as provided in the Bylaw shall make written application to the Council in such form as may be required by the Council for a licence and shall give to the Council such information in respect of the application as the Council may require.
- 706.4 For every such licence there shall be paid to the Council such fee as the Council may decide from time to time by resolution passed in that respect and such licence shall remain in force for a period of twelve months from its date of issue.
- 706.5 The fee for such licence shall be payable in addition to and separate from the dog control fees payable under the Dog Control and Hydatids Act 1982.

707 Breeding or Boarding Kennels

- 707.1 No person shall establish or maintain any hospital, home or breeding kennel for dogs except on a site for which a Resource Consent has been obtained in that behalf and subject to such conditions as the Council may impose. For the purpose of this clause the expression "hospital, home or breeding kennel" shall include any establishment where dogs of a greater age than three months are accommodated for the purpose of treatment, custody or breeding.

708. Classification of Owners

- 708.1 For the purpose of this Bylaw and for the registration of dogs under the terms of section 37 of the Dog Control Act 1996 the following shall be the classifications of owners throughout the Ashburton District.
- (a) *Urban Owners* shall be the owners of dogs resident within those areas of the Ashburton District depicted in the Second Schedule to this Bylaw.
 - (b) *Rural Owners* shall be the owners of dogs resident within those parts of the Ashburton District excluded from the maps in the Second Schedule to this Bylaw.
 - (c) *Selected Owners* shall be the owners of dogs resident within those areas of the Ashburton District depicted in the Second Schedule to this Bylaw who have demonstrated to the Dog Control Officer that they have a responsible attitude to dog control, that their property is appropriately fenced so as to adequately detain any dog kept on the premises and that any dog kept is well cared for and controlled.

709 Control of Dogs in Public Places

- 709.1 Any owner of any dog shall be guilty of an offence against this bylaw if they fail to keep such dog in any public place under effective and continuous control or if they fail to meet the requirements of clauses 709.2, 709.3, 709.4 and 709.5 of this bylaw.
- 709.2 The owner of any 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 declared by resolution of the Council to be subject to the provisions of this clause unless such dog is being carried in or on a vehicle.
The streets and public places as resolved from time to time shall be detailed in Part A of the First Schedule of this Bylaw.
- 709.3 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 declared by resolution of the Council to be subject to the provisions of this clause unless such dog is being carried in or on a vehicle or is at all other times on a hand held leash.
The streets and public places as resolved from time to time shall be detailed in Part B of the First Schedule of this Bylaw.
- 709.4 No dog in any street or public place in any urban area shall be tied or otherwise attached to any post, tree, sign, parking meter or other structure or fitting excepting as provided in clause 709.5
- 709.5 Any person allowing a dog to ride on the open tray of a vehicle shall ensure that it is at all times kept under control by a chain that is sufficiently short in length as to prevent the dog from leaving the tray or endangering passers-by.

- 709.6 An authorised officer may require the owner of any dog that is being carried in or on a vehicle in a prohibited area as detailed in clause 709.5 to remove the dog from the prohibited area if the officer considers the dog to be a nuisance due to reasons of noise or aggressive behaviour.
- 709.7 Any person commits an offence who fails to act on any lawful instruction given by any authorised officer under the provisions of this clause.

710 Dogs Fouling Public Areas

- 710.1 No person being the owner of or having the control of any dog shall permit that dog to foul any public place with faecal matter. Provided that no offence shall be deemed to have been committed against this Bylaw where the person having control of the dog removes the faecal matter immediately.

711 Seizure of Dogs Not Under Continuous Control

- 711.1 In addition to any other penalty provided in this part of this bylaw for any breach of its requirements, any dog entering or remaining on any public place within the district controlled by the local authority, not being led by a chain, strap, or other efficient or effective contrivance or without being kept under continual control may be seized and impounded by any person duly authorised by the Council.

712 Impounding or Seizure of Roaming Dogs

- 712.1 Any dog found at large in any public place at any time in contravention of Clauses 709.1, 709.2, 709.3 or 709.4 hereof, whether or not it is wearing a collar having the proper registration label or disc thereon or attached thereto as required by the Dog Control Act 1996, may be seized and impounded by any person duly authorised by the Council.

713 Notice to Owners of Impounded Dogs

- 713.1 Upon any dog being impounded as aforesaid the Council shall, as soon as possible, where the owner is known, advise the owner of such impounding.

714 Disposal of Impounded Dogs

- 714.1 If any dog impounded pursuant to this bylaw is not claimed and all fees paid -
- (a) Within 7 days after the owner has been notified of the impounding;
 - or
 - (b) In any case where the owner is unknown to the Council or cannot be found within such period of time as laid down in the Dog Control Act 1996, the dog may be destroyed, sold or given to any person by or on behalf of the Council, and that person shall thereupon become the owner of the dog:

Provided that the person who was the owner of the dog before it was destroyed or sold shall not thereby be relieved of liability for any penalty or for payment of any fees payable under this part of this bylaw.

715 Release from Pound

- 715.1 No dog shall be released from any pound either operated by the Council or on behalf of the Council until proof of ownership and identity of the dog is established and payment made of:
- (i) A poundage fee as set by the Ashburton District Council from time to time by resolution publicly notified.
 - (ii) Any boarding and sustenance fee.
 - (iii) In the case of any unregistered dog of registerable age, the current annual fee payable under this bylaw.
 - (iv) Any charge in connection with advertising of such dog.

716 Boarding and Sustenance Fees

- 716.1 Fees for the boarding and sustenance of any dog so impounded as herein before provided shall be at such daily rate as may be fixed by the Council by resolution from time to time.

717 Infected Dogs

- 717.1 No person being the owner of any dog, or being in charge of any dog infected with an infectious disease shall take the dog or permit or suffer the dog to enter or remain in any public place.

718 Bitches in Season

- 718.1 No person being the owner of any bitch in season shall take that bitch or permit or suffer that dog to enter or remain in any public place **in an urban area**. Such bitch shall be confined but adequately exercised while in season.

719 Dogs Becoming a Nuisance or Injurious to Health

- 719.1 The owner of any dog or the owner or the occupier of any premises whereon any dog or dogs are customarily kept shall take adequate precautions to prevent the dog or dogs, or the keeping thereof, from becoming a nuisance or injurious to the health of the public.
- 719.2 If, in the opinion of the Council, the dog or dogs or the keeping thereof on such premises has become or is likely to become a nuisance or injurious to health, the Council or any person duly authorised in that behalf by the Council 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 such dog or dogs.
- (c) Require such 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) To clean and keep clean the dog kennel and associated area.

719.3 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 this bylaw.

719.4 No person shall neglect to bury or to cause to be buried the body or part of the body of any dog belonging to him or in his charge or keeping that may have died. At least 750mm of cover shall be provided on the body or part thereof.

720 Causing Dogs to Become Unmanageable

720.1 Any person shall be guilty of an offence against this bylaw who behaves so as to cause any dog in any street, private street, or public place to become restive or unmanageable.

721 Conviction and Fines

721.1 Every person who commits a breach of any of the provisions of this bylaw shall be liable on summary conviction to a fine not exceeding \$500 and where the offence is a continuing one then to a further fine not exceeding \$50 for every day or part of a day during which the offence has continued.

721.2 The continued existence of any work, thing or state of affairs contrary to the provisions of this bylaw shall be deemed a continuing offence within the meaning of this part of this bylaw.

APPENDIX II

CHAPTER 7 (SCHEDULES)

FIRST SCHEDULE

PART A - AREAS WHERE DOGS ARE PROHIBITED

1. All cemeteries throughout the District.
2. All children's' playground areas and paddling pool areas within the District.
3. In any Public Library.
4. Lake Clearwater Hut area.

PART B

AREAS WHERE DOGS ARE PERMITTED ONLY IF ON A HAND HELD LEASH

1. All public places in any urban area other than those areas detailed in Part C of this schedule.

PART C

AREAS WHERE DOGS MAY BE EXERCISED AT LARGE BUT UNDER THE DIRECT CONTROL OF THEIR OWNERS

1. All public places in other than urban areas excepting that, through Reserve Management Plans, this Bylaw authorises Management Boards to establish separate and independent dog control policies non compliance with which shall be an offence under this Bylaw.
2. The area adjacent to the main south railway line south of the Ashburton River bridge and known as "The Green".
3. Pioneer Park.
4. Digby Park.
5. Patching Street Reserve (excluding children's' play area).
6. Devon Park (excluding children's' play area).
7. George Glassey Park (excluding children's' play area).
8. Smallbone Drive Reserve.