

CHBDC:Part 12:2008

# **CENTRAL HAWKE'S BAY DISTRICT COUNCIL BYLAWS**



## **Part 12 – Dog Control**

Superseding CHBDC Dog Control Bylaw 2004

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## **Foreword**

The CHBDC Bylaws series covers various matters under local authority jurisdiction. Local authorities are empowered under a variety of Acts including the Local Government Act 2002 to make Bylaws.

This CHBDC:Part 12:2008 Dog Control Bylaw supersedes the CHBDC Dog Control Bylaw 2004.

This Bylaw should be read in conjunction with the CHBDC Dog Control Policy (# 2.9) and also the Dog Control Act 1996 which contains controls relating to the keeping of dogs which are not covered by this Bylaw.

The main purpose of this Bylaw is to manage the regulation and control dogs in public places. It also serves to limit the number of dogs on a property and to assert the standards required for keeping dogs including dogs health. It provides rules regarding not leaving dogs unattended in vehicles and requirements for the owner of any dog that defecates in a public place to immediately remove it. It upholds the requirement for 'statements of disposal' by breeders and pet shops. It outlines the management of the impounding of dog or dogs and provides for any other purpose necessary or desirable to further control dogs. It also lists details of areas where dogs are prohibited, permitted on leashes, or allowed freedom for exercise purposes.

Reference should be made to CHBDC:Part 1 *Introductory* and to the legislation referred to under Referenced Documents, for any other definitions not included in this Part.

## **Referenced Documents**

Reference is made in this document to the following:

- CHBDC Dog Control Policy (# 2.9)

### **New Zealand Legislation**

- Animals Protection Act 1960
- Conservation Act 1987
- Dog Control Act 1996
- Health Act 1956
- Local Government Act 1974
- Local Government Act 2002
- National Parks Act 1980
- Private Investigators and Security Guards Act 1974
- Reserves Act 1977
- Resource Management Act 1991

## CHBDC BYLAWS

### Part 12 - DOG CONTROL

#### 1200 SCOPE

Council is empowered by the Dog Control Act 1996, the Local Government Act 2002 and the Health Act 1956, to make Bylaws to:

- a) manage the regulation and control of dogs in public places;
- b) limit the number of dogs on a property and assert the standards required for keeping dogs;
- c) license owners to allow them to have more than two dogs;
- d) require the owner of any dog that defecates in a public place to immediately remove the faeces;
- e) provide details for areas where dogs are prohibited, permitted on leashes, or allowed freedom for exercise purposes;
- f) regulate the impounding of dog or dogs;
- g) require statements of disposal by breeders and pet shops;
- h) provide for any other purpose necessary or desirable to further control dogs.

This part of this bylaw aims to achieve these purposes as well as requiring the licensing of a person for keeping (to keep) more than two dogs.

This part should be read in conjunction with the Central Hawke's Bay District Council's Dog Control Policy (# 2.9), as well as with the Dog Control Act 1996 which also contains controls relating to the keeping of dogs which are not covered by this Part.

These include:

- the powers of Dog Control Officers and Rangers,
- the classification of probationary owners,
- the disqualification of owners,
- the classification of dangerous dogs,
- the registration of dogs,
- the seizure and impounding of dogs,
- the issuing of infringement notices.

#### 1201 FORMER BYLAWS REPEALED

The Central Hawke's Bay District Dog Control Bylaw 2004 is hereby repealed and all bylaws of the Central Hawke's Bay District Council already in force shall be read subject to this bylaw, and in the event of conflict between the provisions of any former bylaw and the provisions of this bylaw, the provisions of this bylaw shall prevail.

## 1202 DEFINITIONS AND INTERPRETATION

In this bylaw, unless the context otherwise requires:

**Act** - means the Dog Control Act 1996 including any subsequent amendments.

**Adequate Shelter** - means the following:

- weather proof,
- provided with clean water,
- of sufficient size to allow the dog to freely move, stretch out and recline,
- of sufficient height so that it may stand freely,
- constructed on dry ground,
- provided with a fixed chain which allows the dog free movement in the case of a kennel with no other means of confinement,
- kept in a clean and sanitary condition,
- provided with a floor and constructed so that surfaces are easily cleaned.

**At Large** - means free or at liberty in a public place without any physical restraint by a person, but shall not include a dog under the visual and oral command of a person exercising the dog in an exercise area.

**Breeding Kennels** - means any hospital, home, boarding or breeding kennel and shall include any establishment where dogs of a greater age of three months are accommodated for reward or payment for the purposes of treatment, custody or whelping and shall also include any establishment where dogs are registered in the name of the person in charge of such hospital, home or breeding kennels.

**Controlled Areas** - means any part of any street or public place described in the Second Schedule where dogs must be kept under continuous control whilst there, by an effective lead or being carried on or in a vehicle.

**Council** - means the Central Hawke's Bay District Council and any duly authorised officer.

**District** - means the territory of the Central Hawke's Bay District Council.

**Dog Control Officer** - means a Dog Control Officer appointed under section 11 of the Dog Control Act 1996 and includes a warranted officer exercising powers under Section 17 of the Act.

**Dog Ranger** - means a Dog Ranger appointed under Section 12 of the Dog Control Act 1996 and includes an honorary Dog Ranger.

**Exercise Area** - means those places described in the Third Schedule designated as dog exercise areas for dogs without leads providing the dog is under continual control of a responsible person.

**Impound** - means the seizure, taking into custody or receiving into custody, confinement, or other exercise of control over a dog by any duly authorised officer of Council.

**Microchip** - means a Radio Frequency Identifier Transponder. This is implanted in the neck of the dog.

**Neutered Dog** - means a dog that has been spayed or castrated and does not include a dog that has received a vasectomy.

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

- a) owns the dog; or
- b) has the dog in his / 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 sixteen (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 guardians 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 the Dog Control Act 1996 or the Animals Protection Act 1960.

**Principal Act** - means the Dog Control Act 1996 or any enactment thereafter in substitution.

**Prohibited Areas** - means any of the following places:

- a) those places described in the First Schedule hereto or added to as in b) below.
- b) any roads or streets or places specified by resolution of Council and subsequently advised by public notice.
- c) any recreational buildings owned or controlled by Council.

**Publicly Notified** - means a notice published in the newspapers circulating generally in the District or through any other suitable means.

**Public Place** - means every road, footpath berm, mall arcade, court, or other thoroughfare of a public nature and includes every reserve subject to the Reserves Act 1977.

**Reserve** - means any Reserve within the meaning of the Reserves Act 1977.

**Responsible Dog Owner** - means a person who has a secure property, registers their dog/s on time, keeps their dog/s under control, and provides regular feeding, exercise and adequate housing.

**Stock** - means any live horse, cattle, sheep, swine, alpaca, llama, bison, donkey, hinney, mule, deer, goat, or water buffalo that is not in a wild state, or other animal that is kept within a fence or enclosure for farming purposes.

**Town or Township Areas** - means the towns of Waipawa and Waipukurau and the townships of Tikokino, Onga Onga, Takapau, Otane, Kairakau Beach, Mangakuri Beach, Pourerere Beach, Blackhead Beach, Porangahau, Te Paerahi Beach and Aramoana Beach (including the Shoal Beach sub-division) as defined on Council District Planning Maps.

**Working Dog** - means;

- a) any guide dog, or hearing ear dog;
- b) any dog:
  - i. kept by the Police, the Customs Department, the Ministry of Agriculture, the Ministry of Fisheries, the Department of Conservation, or the Ministry of Defence, for the purposes of carrying out of their functions, powers, and duties; or
  - ii. kept solely for the purposes of herding or driving stock; or
  - iii. owned by a person employed for pest destruction; or
  - iv. 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
  - v. declared by resolution of the territorial authority to be a working dog for the purposes of the bylaw.

### **1203 LIMITATION OF NUMBER OF DOGS PERMITTED ON LAND OR PREMISES**

**1203.1** No person shall keep or suffer or allow to be kept on any land or premises more than two dogs over the age of three months unless there is in force, in respect of such land or premises, a licence from Council for such purposes in relation to the additional dog or dogs, pursuant to Section 1204 of this bylaw.

**1203.2** Nothing in Section 1203.1 of this bylaw shall apply to dogs outside Town or Township areas.

### **1204 LICENSING OF ADDITIONAL DOGS**

**1204.1** Prior written consent from Council is required for any additional dogs, above the two permitted under Section 1203.1.

**1204.2** Any person desiring to obtain consent shall make written application to Council for a licence and shall provide all such information as Council may require.

**1204.3** Council when considering the application shall have regard to the applicant's Responsible Dog Owner status and whether the applicant has obtained the consent of their immediate neighbours to keep more than two dogs on the land or premises.

**1204.4** Subject to the foregoing provisions of this bylaw, Council may issue a licence for the purposes specified in Section 1203.1.

**1204.5** Any such licence may be issued upon or subject to such reasonable terms, conditions and restrictions consistent with the Bylaw as Council may determine and shall remain in force from the date of issue until such time Council deems appropriate.

**1204.6** Licences for additional dogs are not transferable to any subsequent owner/s.

**1204.7** Council may at any time while a licence is in force revoke the licence if Council is satisfied that:

- a) the keeping of the additional dogs on the land or premises specified in the licence has caused or materially contributed to a nuisance or the likelihood of injury to health; or
- b) the keeping of the additional dog or dogs on the land or premises specified in the licence has caused a detrimental effect upon the surrounding neighbourhood; or
- c) there has been a failure to comply with all or any of the terms, conditions and restrictions of the licence. Then in any such above case or cases Council may revoke the licence.

**1204.8** Where Council resolves to revoke or amend the original decision after its determination according to Section 1204.7, the owner shall comply with the decision within fourteen (14) days of receipt of written notice of the decision.

### **1205 STANDARDS FOR KEEPING OF DOGS**

**1205.1** The occupier of any premises on which any dog is kept shall take all steps reasonably necessary to:

- a) ensure the dog has adequate shelter - refer Section 1205.3,
- b) ensure that the dog receives proper care and attention and is supplied with proper and sufficient food and water,
- c) ensure the dog receives adequate exercise,
- d) prevent the keeping of the dog becoming a nuisance or injurious to health,
- e) prevent the keeping of a dog beneath the floor of any building,
- f) restrain any dog behind a fence so as to allow reasonable public access to private property.

**1205.2** If Council considers that the keeping of a dog is such that Section 1205.1 is breached, Council may serve a notice on the occupier to take actions to require the conditions under which the dog is kept to be improved, so as to comply with Section 1205.1. The notice may specify all or any of the following actions to be taken and except in the case of ongoing actions, the time within which compliance must be achieved.

- Reduce the number of dogs kept (notwithstanding the existence of a licence under Section 1204 or any power to revoke it).
- Construct, alter or reconstruct kennels or other places where dogs are kept.
- Keep dogs confined or restrained in specified ways, in specified areas and for specified times.
- Clean kennels and other places where dogs are kept.
- Take such other action as may be reasonably necessary to properly house any dogs or to reduce or eliminate any nuisance or injury to health caused by or to such dogs.

**1205.3** Council shall only specify actions under Section 1205.2 which are reasonable having regard to the inadequacy of housing or the nature of the nuisance or injury to health being caused. In specifying any action under Section 1205.2 Council shall have regard to:

- a) the need for adequate shelter, space and the need of dogs for a clean and healthy living area,
- b) the proximity of other dwellings,
- c) the separation of kennels or other places dogs are kept from boundaries,
- d) the use of materials which are easily cleaned in kennels and other places dogs are kept,
- e) the construction of the flooring or ground treatment of any kennel or other place where dogs are kept, whether it is graded and whether it is drained to a sewer drain,
- f) the need for cleaning of kennels or other places where dogs are kept,
- g) notwithstanding these provisions Council may permit alternative accommodation for a dog where it is satisfied that the owner will be providing adequately for the needs of the dog and no other reasonable person in its opinion is adversely affected.

## **1206 CONTROL OF DOGS**

**1206.1** All dogs will be tied up or otherwise confined within the owners property at all times.

**1206.2** Section 1206.1 will not apply where a dog is:

- a) a working dog actively engaged in its purpose;
- b) in an exercise area; or
- c) is otherwise controlled on a leash by a person capable of physically restraining the dog.

**1206.3** The dog owner shall be deemed not to be in control of a dog:

- a) if it is at large; or
- b) if it is in a public place, not being an exercise area, without physical restraint by means of a lead, harness or other effective means of restraint and under the control of a person capable of physically restraining the dog; or
- c) while under restraint, attacks or is permitted to attack any person, dog, stock, poultry, domestic animal, or protected wildlife.

## **1207 DOGS IN VEHICLES**

No person shall:

- a) take a dog in a motor vehicle or leave a dog unattended in a vehicle unless it is impossible for the dog to get out; or
- b) leave a dog unattended in a vehicle, in such a manner as to cause it undue distress; or
- c) allow a dog to ride on the open tray of a vehicle unless it is kept under control by a chain or a rope that prevents the dog from leaving the tray or from snapping at passers by.

**1208 AREAS PROHIBITED TO DOGS**

- 1208.1** No owner shall allow or take a dog on to an area designated as a prohibited area.
- 1208.2** Council may, by publicly notified resolution, designate an area within its territory or under its control to be an area prohibited to dogs.
- 1208.3** The areas designated as prohibited will be listed in Schedule 1 attached.
- 1208.4** No person, knowingly or not, shall take a dog into a public place amenity unless the dog is under control.
- 1208.5** This section shall not apply to a guide dog, hearing ear dog, or any dog which is being used by the Police, Customs Department, Ministry of Agriculture, Ministry of Fisheries, Department of Conservation, Ministry of Defence or any security guard in the course of their duties.
- 1208.6** Areas prohibited to dogs, will be publicly notified and shall be marked by at least one sign as such.

**1209 CONTROLLED AREAS**

- 1209.1** Council may by resolution designate controlled areas.
- 1209.2** The controlled areas as defined in this bylaw will be listed in Schedule 2 attached.
- 1209.3** The owner of any dog shall not allow such dog to enter in or on any street or public place designated as a controlled area unless under continuous control by an effective lead or being carried in or on a vehicle. The owner shall be responsible for the removal of any faeces deposited by the dog
- 1209.4** Areas designated as “controlled” will be publicly notified and shall be marked by at least one sign as such.

**1210 OFF LEAD / DOG EXERCISE AREA**

- 1210.1** Council may by resolution, designate dog off lead / exercise areas.
- 1210.2** Dog off lead / exercise areas as defined in this bylaw will be listed in Schedule 3 attached.
- 1210.3** The owner may exercise their dog off the lead in any area designated by Council, which has been notified to the public and shall be marked by at least one sign as such.
- 1210.4** Owners shall keep any such dog under continuous supervision and control, and be responsible for the removal of any faeces deposited by the dog.
- 1210.5** Any bitch in season (on heat) is to be prohibited from any off lead / exercise area.

**1211 FOULING IN A PUBLIC PLACE**

**1211.1** An owner of any dog who permits or suffers the dog to defecate in any public place or land or place not the property of or occupied by the owner commits an offence against this bylaw.

**1211.2** No offence shall however be committed against this bylaw if the owner of the dog immediately removes the faeces of the dog to a proper place of disposal.

**1211.3** Where a litter receptacle or similar container is available in a public place, the owner may dispose of the dog's faeces after enclosing the faeces in a suitable plastic or leak proof bag, to that receptacle or container.

**1212 NUISANCES CAUSED BY DOGS**

The owner of any dog or the occupier of any premises where any dog or dogs are kept shall:

- a) keep every bitch in season (on heat) on the premises confined within a dog-proof enclosure for the duration of the oestrus cycle. The bitch shall be regularly exercised under control during this period of confinement;
- b) take such steps as are necessary to prevent dogs on premises rushing at persons or intimidating persons lawfully on or off those premises;
- c) be requested to comply with actions as specified in Section 1205.2 or any other action as may be deemed necessary by officers; and
- d) not allow a dog to suffer or permit such dog to bark in such a manner or for such a period as to be offensive or likely to be injurious to health.

**1213 DISEASED DOGS**

The owner of a dog which is suffering from disease shall ensure that the dog is properly treated for the disease and, unless taking the dog for treatment, shall ensure that the dog is confined to land occupied by the owner while it so affected.

**1214 IMPOUNDING**

**1214.1** Any dog found at large in breach of this bylaw may be impounded by Council.

**1214.2** No dog shall be released from any pound of Council unless;

- a) proof of ownership and identity of the dog is established; and
- b) all fees determined by resolution of Council are paid; and
- c) 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 unless such fee has previously been paid; and
- d) an unregistered dog that has been impounded must be microchipped before being released. Refer to section 69A of the Dog Control Act 1996 (2004 Amendment).

**1214.3** It shall be an offence for any person to remove any dog from any pound without the approval of Council and then only in accordance with Section 1214.2.

**1214.4** Council may dispose of any impounded dog after seven (7) days, if the owner is not known or cannot be located or after all reasonable steps have been taken to notify the owner.

### **1215 BREEDING KENNELS**

No person shall establish, maintain any hospital, home, boarding or breeding kennels for dogs except on a site approved by Council and subject to such conditions as may be reasonably imposed. In addition, resource consent may be required under the Resource Management Act 1991.

### **1216 OFFENCES**

**1216.1** Any person commits an offence against this bylaw, who:

- a) contravenes, or permits a contravention of the provisions of this bylaw;
- b) does not cease any action which that person is required to cease under this bylaw;
- c) obstructs or hinders any officer in the exercise of any power conferred by this bylaw.

**1216.2** Every person who commits a breach of any provision of this bylaw shall be liable upon conviction to a fine not exceeding \$500.00 and, where the breach is a continuing one, to a further fine not exceeding \$50.00 for every day on which the breach has continued.

### **1217 NOTICES**

**1217.1** Any notice required by this bylaw to be given in writing to the occupier of any premises may be posted or delivered to that person by normal mail or may be affixed to the premises, and shall be deemed to have been served such action being taken.

**1217.2** Where the name of the occupier is not known to Council any notice may be addressed to the "Occupier" and shall be deemed to have been served on such action being taken.

### **1218 DISPENSING POWER**

**1218.1** Council may grant a dispensation from full compliance with any provision in this bylaw where it is of the opinion that full compliance would needlessly and injuriously affect any person or business, without corresponding benefit to the public or any section of it.

**1218.2** Written application for dispensation shall be made to Council, giving full details of the relief sought and the reasons why the relief is sought.

**1218.3** Council may in its absolute discretion, either refuse the application, or grant it subject to such conditions as it may consider appropriate.

**1219 DELEGATION POWERS**

Council may at any time, by resolution, delegate any powers under this bylaw to a committee of Council or a duly appointed officer of Council, in accordance with the Local Government Act 2002.

**1220 BYLAW APPROVAL DATE**

The Common Seal of the Central Hawke's Bay District Council was attached, under Resolution (*Reference - CHBDC:Part12:2008*) passed at a meeting of the Central Hawke's Bay District Council held on ..... (Day) ..... (Month) ..... (Year).

*DATE CONFIRMED* : \_\_\_\_/\_\_\_\_/\_\_\_\_

## **SCHEDULE 1**

### **PROHIBITED AREAS**

1. The following reserves:
  - a) Nellie Jull Park, Waipawa
  - b) Loten Park, Waipawa
  - c) Charlotte Street Playground, Takapau
  - d) A'Deane Park, Waipukurau
  - e) Moncktons Bush Scenic Reserve
  - f) A'Deanes Bush Scenic Reserve
  - g) Inglis Bush Scenic Reserve
  - h) Elsthorpe Scenic Reserve
  - i) Springhill Scenic Reserve
  - j) Paterson Bush Scenic Reserve
  - k) McLeans Scenic Reserve
  - l) Matai Moana, Hiranui Scenic Reserve
  - m) Matai Moana, Bush Road Scenic Reserve
  - n) Mangatewai No 1 Scenic Reserve
  - o) Mangatewai No 2 Scenic Reserve
2. Any public campsite except where the prior written permission of the owner / custodian is obtained by the dog owner.
3. Within the immediate confines of the entrance to public halls and public swimming pools.
4. Central Hawke's Bay District Council Administration Building.
5. Public Libraries.
6. Public Swimming Pools and Paddling Pools.
7. Children's playing areas under the control of the Central Hawke's Bay District Council.
8. Any other area as Council deems necessary which will be publicly notified and marked accordingly.

## SCHEDULE 2

### CONTROLLED AREAS

1. All urban areas.
2. In any cemetery.
3. In the following retail shopping areas (as defined on the District Plan maps);
  - (a) Waipawa, on the west side of High Street including Centrecourt; and
  - (b) Waipukurau, both sides of Ruataniwha Street from Railway Esplanade to the eastern end of Ruataniwha Street (until # 11 Bishops Dental Surgery), and the block of streets defined by Ruataniwha, Northumberland, Russell and Herbert Streets and from Ruataniwha Street up Kitchener Street to the Waipukurau Library.
4. All public carparks.
5. All public reserves and parts of parks and reserves under the control of Council, which are neither prohibited areas, off lead areas or exercise areas.
6. All that area of beach and foreshore between the hours of 8am and 6pm each day of the months of December- January- February as follows:

**Kairakau** - 50 metres north of memorial seat to southern end of Kairakau camp. All defecation must be removed. All dogs must be kept under continuous effective control - that is on a leash at all times.

**Pourerere** - Within 50 metres north and south of the changing sheds. All defecation must be removed. All dogs must be kept under continuous effective control - that is on a leash at all times.

**Porangahau** - Within 50 metres north and south of the public toilets situated in the day car park at Te Paerahi beach. All defecation must be removed. All dogs must be kept under continuous effective control - that is on a leash at all times.

**SCHEDULE 3**

**OFF LEAD / EXERCISE AREAS**

1. The stop-banks and river areas of the Tuki Tuki and Waipawa Rivers adjacent to the Towns of Waipukurau and Waipawa respectively as defined on District Plan maps.