



# *Draft Dog Control Policy 2004*

## ***Objectives of the Policy***

***Hauraki District Council's Dog Control Policy aims to promote the control of dogs in the interests of public safety and responsible dog ownership.***



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## Introduction

Section 10 of the Dog Control Act 1996 and the amendment to sub-section (4) under the Dog Control Amendment Act 2003 sets out matters which should be addressed in this policy document namely:

- a) The nature and application of any Bylaws.
- b) Identification of public places in which dogs are to be prohibited either generally or at specified times pursuant to the Bylaw.
- c) Identification of public places and other areas or parts of the District where dogs are to be controlled on a leash.
- d) Identification of exercise areas where dogs may be at large.
- e) Specifies details in regards to:-
  - Owner education programmes
  - Dog obedience courses
  - Classification of owners
  - Disqualification of owners
  - Issuing of Infringement notices
  - Fees

In adopting a policy Council must have regard to:

- the need to minimise danger, distress, and nuisance to the community generally; and
- the need to avoid the inherent danger in allowing dogs to have uncontrolled access to public places that are frequented by children, whether or not the children are accompanied by adults; and
- the importance of enabling, to the extent that is practicable, the public (including families) to use streets and public amenities without fear of attack or intimidation by dogs; and
- the exercise and recreational needs of dogs and their owners.

The policy shall identify any land within the Hauraki District that is included in—

- (i) A controlled dog area or open dog area under section 26ZS of the Conservation Act 1987;  
or
- (ii) A national park constituted under the National Parks Act 1980.

The existing policy that this document replaces was adopted in 2002

## Conditions and Criteria

The Council proposes to maintain a Control of Dogs Bylaw which will provide minimum requirements for:

- Housing of dogs
- Control of dogs on private land and in a public place
- Confinement of dogs in season and during hours of dark
- Numbers of dogs on premises
- Fouling by dogs
- Nuisances created by dogs
- Diseased and unmanageable dogs
- Impounding
- Dog Prohibited and Restricted areas
- Dog exercise areas
- Setting of dog control fees.



The bylaw will have application throughout the Hauraki District.

## Definitions

“**Act**” means the Dog Control Act 1996.

“**Companion dog**” means a dog certified by the Top Dog Companion Trust as being a companion dog or a dog under training as a companion dog.

“**Council**” means the Hauraki District Council.

“**District**” means a territorial authority district as defined under the Local Government Act 2002.

“**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 ranger**” means a dog ranger appointed under section 12 of the Act; and includes an honorary dog ranger.

“**Domestic animal**” includes—

- (a) Any animal (including a bird or reptile) kept as a domestic pet,
- (b) Any working dog,
- (c) Any other animal kept by any person for recreational purposes or for the purposes of that person's occupation or employment.

“**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 Hearing Dogs for Deaf People New Zealand Trust as being a hearing ear dog or a dog under training as a hearing ear dog.

“**Infringement offence**” has the meaning given to it in section 65(1) of the Act.

“**Leash**” means an adequate restraint held by a responsible person physically capable of restraining the dog.

“**Neutered dog**” means a dog that has been spayed or castrated; and does not include a dog that has been vasectomised.

“**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 the Act or the [Animal Welfare Act 1999] or the National Parks Act 1980 or the Conservation Act 1987 or any order made under this Act or the [Animal Welfare Act 1999].

“**Private way**” means any roadway, place or arcade laid out or formed within a district on private land, whether before or after the commencement of Part 21 of the Local Government Act 1974, by the owner thereof, but intended for the use of the public generally.

**“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.

**“Rural”** means land zoned rural in the operative Hauraki District Council District Plan.

**“Rural Residential”** means land zoned rural residential in the operative Hauraki District Council District Plan.

**“Territorial authority”** means a city council or a district council named in Part 2 of Schedule 2 to the Local Government Act 2002.

**“Under proper control”** in relation to any dog means that it is effectively secured to a leash, chain or lead which in turn is secured or held by a responsible person so that the dog cannot break loose, or is otherwise physically restrained.

**“Urban”** means land zoned residential, town centre and industrial in the operative Hauraki District Council District Plan.

**“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 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
    - a. kept by the Department of Corrections or any officer or employee of that Department solely or principally for the purposes of carrying out the functions, duties, and powers of that Department, or
    - b. kept by the Aviation Security Service established under section 72B(2)(ca) of the Civil Aviation Act 1990, or any officer or employee of that service solely or principally for the purposes of carrying out the functions, duties, and powers of that service, or
    - c. certified for use by the Director of Civil Defence Emergency Management for the purposes of carrying out the functions, duties, and powers conferred by the Civil Defence Emergency Management Act 2002, 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.

## *Funding*

Dog control activities are funded by:-

- Annual registration fees
- Infringement fees
- Pound fees
- Rates



There is a cost associated with prosecutions.

## **Owner Categories**

### **\* General Dog Owner**

A General Dog Owner is the owner of a dog which resides on an urban, rural residential or rural property. The General Dog Owner pays 100% of the General Dog registration fee.

The General Dog Owner may choose to register their dog(s) under one of the following categories if they meet the criteria of that category.

### **\* Voluntary Owner**

A Voluntary Owner is an owner of a dog which resides on an urban property and has:-

- A consistent record of registration, no complaints nor impounding in the preceding 12 months. Evidence of this previous 12 months history of good ownership will be taken from Council's records. Where the dog does not have this 12 months previous history, because it is new to the Hauraki District, written evidence provided by the owner of the dog from another registration authority will be considered.
- An appropriate means of confining the dog. This will be at the discretion of the dog ranger taking into account the size and nature of the dog and the importance of the dog not creating a barking nuisance, but typically this will require secure fencing.
- Paid a once only application fee of \$15.00 and passed the written examination on dog care and owner legal obligations.

The Voluntary Owner pays 50% of the General Dog registration fee.

### **\* Rural Owner**

A Rural Owner is an owner of a dog that cannot be defined as a working dog under Section 2 of the Dog Control Act 1996 and resides on a rural residential or rural property.

The Rural Owner pays 50% of the General Dog registration fee.

### **\* Working Dog Owner**

A Working Dog Owner is the owner of a dog kept solely or principally for the purposes of herding or driving stock.

Council recognises that this category of dog is under the control of its owner during its working day and is normally secured at all other times. Accordingly it is proposed to require the owner to pay for a maximum of three (3) dogs per property. All working dogs are still required to be included on the registration form.

The Working Dog Owner pays 50 % of the General Dog registration fee.

### **\* Working Dog Special Purpose Owner**

A Working Dog Special Purpose Owner is the owner of a dog as defined as a "Working Dog" but excludes dogs kept solely or principally for the purposes of herding or driving stock.

A dog classified under this category must be registered but is exempt from the payment of registration fees.

## Other Categories of Owners

### \* Probationary Dog Owner

A 24 month probation classification may be imposed where any person is convicted of an offence under:-

- The Dog Control Act 1996,
- Parts 1 or 2 of the Animal Welfare Act 1999.
- Section 26zzp of the Conservation Act 1987.
- Section 56(1) of the National Parks Act 1980, or
- Where a person commits 3 or more infringement offences (not relating to a single incident or occasion) within a continuous period of 24 months.

#### *Effects of Probationary Owner Category*

A Probationary Dog Owner: -

- Will not be allowed to be the registered owner of any dog unless that person was the registered owner before the classification was imposed.
- Will dispose of every unregistered dog, in a manner that does not constitute an offence, within 14 days.
- May be required to undertake a dog owner education programme or dog obedience course (or both), at their own expense, approved by Council.
- 

Unless there are exceptional circumstances in any particular case, this classification will be imposed.

The Probationary Owner pays 100% of the applicable registration fee and is entitled to any rebates.

### \* Disqualified Dog Owner

Up to 5 year disqualification of dog ownership may be imposed where any person is convicted of a serious offence under:-

- The Dog Control Act 1996.
- Parts 1 or 2 of the Animal Welfare Act 1999.
- Section 26zzp of the Conservation Act 1987.
- Section 56(1) of the National Parks Act 1980, or
- Where a person commits 3 or more infringement offences (not relating to a single incident or occasion) within a continuous period of 24 months.

#### *Effects of Disqualification*

A person disqualified from owning a dog:-

- Must dispose of every dog owned by that person, in a manner that does not constitute an offence, within 14 days.
- Must not be in possession of a dog for the period of classification.
- Must not dispose of the dog to any person who resides at the same address.

Unless there are exceptional circumstances in any particular case, this classification will be imposed.

## Dog Classifications

### \* Menacing Dog

If Council considers that a dog poses a threat to any person, stock, poultry, domestic animal or protected wildlife because of:-

- Any observed or reported behaviour of the dog, or
- Any characteristics typically associated with the dog's breed or type.

The Council may classify the dog to be a menacing dog.

Council has resolved to classify dogs belonging wholly or predominantly to one of the following restricted breeds or types as menacing:-

- American Pit Bull Terrier.
- Dogo Argentino.
- Brazilian Fila.
- Japanese Tosa.

Menacing dogs must be muzzled in public places and private ways (except when confined completely within a vehicle or cage) and are required to be neutered.

Menacing Dog Owners pay 100% of the applicable registration fee including any rebates.

### \* Dangerous Dog Owner

A Dangerous dog is any dog in respect of which a person has been convicted of an offence under section 57A(2) of the Dog Control Act 1996 or where their dog has been confirmed to be dangerous on the basis of sworn evidence under section 31 (b) of the Dog Control Act 1996.

The Dangerous Dog Owner pays 150% of the applicable registration fee.

## Prohibited Areas

Dogs are prohibited from entry to the following Public Places:-

1. From December 26 in any one year to 30 January of the following year between the hours of 9.00am and 7.30pm –
  - Whiritoa - Beach Recreation Reserve
  - Whiritoa - Beach
  - Whiritoa - all Council reserves
2. Children's playgrounds.
3. Areas of ecological sensitivity.
4. Any other areas as resolved by Council from time to time through the Dog Control Bylaw.



## Restricted Areas

Dogs are prohibited from entry to the following Public Places unless on a leash or otherwise properly secured:-

1. From December 1 in any one year to Easter Monday of the following year –
  - Whiritoa Beach Recreation Reserve
  - Whiritoa Beach
  - Whiritoa all Council reserves
2. Entry to land under the control of the Department of Conservation may be restricted. Owners should consult with the Department of Conservation prior to entering land under the Department's control.
3. Areas of intense public use for example, but not limited to, picnic areas, sports fields, shopping areas and other similar public places.

## Exercise Areas

The following areas of land within the District are available for the exercise and recreation needs of dogs:-

- Foreshore of Whiritoa beach from Easter Tuesday to 30<sup>th</sup> November inclusive but excluding the private land at the Southern end of the beach.
- Stop bank land in Paeroa owned by Environment Waikato and not sub leased for grazing or other purposes.
- Brenan Field, Paeroa but excluding the skate board area.
- Waihi South Reserve, Consol Street, Waihi.
- Stop bank land in Ngatea owned by Environment Waikato and not sub leased for grazing or other purposes.
- Area of Morgan Park behind the netball courts, Waihi but excluding the children's playground area.

Dogs in exercise areas are required to be under the continuous surveillance or proper control of a responsible person.

## Fees

Dog registration fees are to be set by resolution of Council.

Levels of service and funding will be set through the Long Term Council Community Plan (LTCCP).

Owners of working dogs other than those dogs kept solely or principally for the purposes of herding or driving stock are exempt from the payment of registration fees in respect to those dogs. The owner is still required to register the dog.

Council recognizes that there are differences in the level of control (and hence cost), which arise from various classes of dogs. As far as is practicable, Council fees will reflect these differences.

## Number of Dogs on a Premise

Keeping more than two (2) dogs in the urban areas of the District can cause complaints from neighbours with issues such as fouling, disposal of excrement, barking and general nuisance.

No person within an urban zone (residential, town centre, industrial) in the District shall keep, suffer or permit to be kept on any land or on and within any premises, more than two (2) dogs of an age of three months or more at any one time without written consent of Council.

Council's District Plan Rules control the breeding and kennelling of dogs.

## Control of Dogs

The Dog Control Act 1996 requires that all dogs be kept under control at all times. This means that:-

- In a public place, other than an exercise area, the dog should be under the proper control of the owner or a responsible person.
- On an owners property the dog should be under the continuous surveillance or proper control of the owner or a responsible person, or confined in such a manner that it can not freely leave the property.
- In an exercise area the dog should be under the continuous surveillance or under proper control of the owner or a responsible person.

Accordingly dogs should be appropriately confined when not under the control of their owner or responsible person. Council has taken into account the concerns of the Royal New Zealand Society for the Prevention of Cruelty to Animals and the Animal Welfare Act 1999 in determining the following examples of adequate confinement:-

1. Small lap type dog that spends its time in the confines of a dwelling and is only let out for exercise under the proper control of its owner.
2. In the case of an urban or rural residential property, dogs are to be confined in a minimum area of property measuring eight (8) metres by four (4) metres fully fenced with a two (2) metre high secure fence and lockable gate.
3. In the case of a dog classified as dangerous the dog is required to be kept in a securely fenced portion of the owner's property which it is not necessary to enter to obtain access to at least one

door of any dwelling on the property. A minimum area measuring eight (8) metres by four (4) metres of secure fencing and a lockable gate all of a minimum height of two (2) metres. The size of the dog will determine any increase in height of the secure fencing above the minimum height and this will be at the discretion of the dog ranger.

4. In all other cases the dog must be under proper control or physically restrained.

Uncontrolled dogs in terms of section 52(2) of the Act will be impounded where appropriate.

An infringement notice may be issued for any offence.

Dogs impounded on more than 3 occasions within a continuous period of 24 months may be required to be neutered.

Complaints of dogs attacking and causing serious injury are to be referred to the NZ Police.

## Infringement Notices

The Council has authorized a number of persons within its monitoring division to issue infringement notices. Within the confines of the law it is proposed that the issue of infringement notices will be left to the discretion of those authorized officers.

The following infringements as set by the Dog Control Act 1996 will apply:-

<u>Offence</u>	<u>Penalty</u>
Wilful obstruction of a Dog Control Officer	\$1,000
Failure / refusal to supply information / wilfully stating false particulars	\$1,000
Fraudulent sale/ transfer of dangerous dog	\$1,000
Failure to comply with the effects of disqualification	\$1,000
False statement relating to registration	\$1,000
Failure to implant a microchip transponder	\$ 500
Keeping an unregistered dog	\$ 300
Fraudulent attempt to procure replacement registration label / disc	\$1,000
Failure to advise change of ownership of dog	\$ 100
Failure to advise change of address of dog	\$ 100
Removal / swapping of labels / discs	\$1,000
Failure to keep dog controlled or confined	\$ 300
Failure to keep dog under control	\$ 300
Failure to use or carry a leash	\$ 300
Allowing dog known to be dangerous to be at large unmuzzled	\$1,000
Failure to comply with the dog Control bylaw	\$ 500

Unless there are exceptional circumstances in any particular case, infringement notices will not be waived.

## **Offence of failing to register a dog**

If the Hauraki District Council has reasonable grounds to believe that a person has failed to comply with section 42 (1) of the Dog Control Act 1996 a dog control officer may seize and impound the dog. To do so, the dog control officer may at any reasonable time enter any land or premises, (except a dwelling house) occupied by the owner of the dog.

## **Relevant Delegations**

The Chief Executive has delegated authority and the authority to sub-delegate in respect to all provisions within this policy.

The Manager of Planning and Environmental Services has delegated authority and the authority to sub-delegate in respect to all provisions of this policy and to waive an infringement notice where there are unusual circumstances.

## **Prosecutions**

It is the Council's Policy that except in the case of non-registration and dog attack offences that prosecution will be at the discretion of the Council. In the case of non-registration and dog attack offences the Council has delegated the authority to undertake prosecutions to the Planning & Environmental Services Manager.