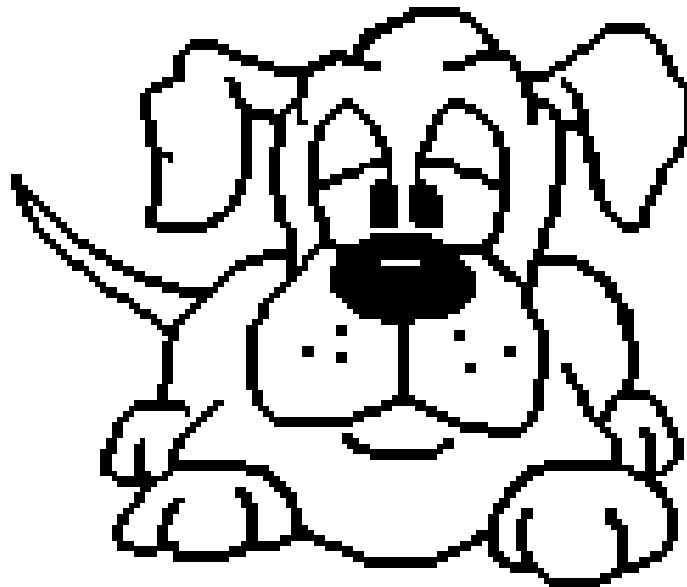


# **HOROWHENUA DISTRICT COUNCIL**

## ***DOG CONTROL BYLAW 2004***



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# HOROWHENUA DISTRICT COUNCIL DOG CONTROL BYLAW 2004

## INTRODUCTION

### 1. PREAMBLE

The Horowhenua District Council, in pursuance of the powers contained in the Local Government Act 2002, the Bylaws Act 1910, the Dog Control Act 1996, the Dog Control Amendment Act 2003, and any other authority enabling the Council in that behalf makes the following Bylaw, as set out hereunder.

This Bylaw will be in force throughout the whole of the District of Horowhenua.

### 2. TITLE AND COMMENCEMENT DATE

This Bylaw shall be known and referred to as the Horowhenua District Council Dog Control Bylaw 2004, and shall come into effect on the 21<sup>st</sup> day of July 2004.

### 3. REPEAL

As from the date on which this Bylaw comes into force, the Horowhenua District Council Dog Control Bylaw 1997 shall be repealed, and in respect of such repeal the provision of Section 20(e) of the Acts Interpretation Act 1924 shall apply providing that the repeal of any bylaw shall not prevent any such bylaw from being put into force for the collection or recovery of any such charges, fees, fines, penalties, or otherwise in relation thereto.

### 4. PURPOSE

The purpose of this Bylaw is to:

- (a) Make better provision for the care and control of dogs by:
  - (i) requiring the registration of dogs; and
  - (ii) making special provision in relation to menacing and dangerous dogs; and
  - (iii) imposing on the owners, obligations designed to ensure that dogs do not cause a nuisance to any person and do not injure, endanger, or cause distress to any person; and
  - (iv) imposing on owners of dogs, obligations designed to ensure that dogs do not injure, endanger, or cause distress to any stock, poultry, domestic animal, or protected wildlife; and
- (b) Make provision in relation to damage caused by dogs.

### 5. INTERPRETATIONS

In this Bylaw, unless the context otherwise requires:

“**District**” means the territorial authority District of Horowhenua.

“**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.

“**Dog control fee**” means any fee prescribed under section 37 of this Act.

**“Dog control officer”** means a dog control officer appointed under section 11 of this Act; and includes a warranted officer exercising powers under section 17 of this Act.

**“Dog ranger”** means a dog ranger appointed under section 12 of this 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 of 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 this Act.

**“Minister”** means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act.

**“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 this 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.

**“Poultry”** means any live bird (including a domestic fowl, a duck, a goose, a turkey, a guinea-fowl, a pheasant, an emu, an ostrich, a quail, or a pigeon) that is kept or raised for the purpose of sale or of producing eggs, hatching eggs, or poultry products or for the purpose of rearing on behalf of another person.

**“Private way”** has the meaning given to it by section 315(1) of the Local Government Act 1974.

**“Protected wildlife”** means—

- (a) Any animal for the time being absolutely protected pursuant to section 3 of the Wildlife Act 1953; and
- (b) Any animal for the time being partially protected pursuant to section 5 of the Wildlife Act 1953, other than an animal in such circumstances that it may be hunted or killed under the authority of subsection (2) of that section; and
- (c) Any animal that is a marine mammal within the meaning of the Marine Mammals Protection Act 1978.

**“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.

**“registration year”** has the same meaning as that given to the term **“financial year”** in section 5(1) of the Local Government Act 2002.

**“specified agency”** —

- (a) means—
  - (i) the Aviation Security Service established under section 72B(2)(ca) of the Civil Aviation Act 1990;
  - (ii) the Department of Conservation;
  - (iii) the Department of Corrections;
  - (iv) the Ministry of Agriculture and Forestry;
  - (v) the Ministry of Defence;
  - (vi) the Ministry of Fisheries;
  - (vii) the New Zealand Customs Service;
  - (viii) the New Zealand Defence Force;
  - (ix) the New Zealand Police; and
- (b) includes the Director of Civil Defence and Emergency Management.

**“Stock”** means—

- (a) Any live horse, cattle, sheep, swine, alpaca, llama, bison, donkey, hinny, mule, or water buffalo that is not in a wild state.
- (b) Any deer, goat, thar, rabbit, possum, or other animal that is kept within a fence or enclosure for domestic or farming purposes.

**“territorial authority”** has the same meaning as in the Local Government Act 2002; but, except for the purposes of section 7 of this Act, does not include any territorial authority that has united with any other territorial authority under clause 30(1)(b) of Schedule 7 of the Local Government Act 2002.

**“Warranted officer”** means any person who is for the time being a warranted officer within the meaning of the Conservation Act 1987.

**“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
    - (iva) 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
    - (ivb) 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
    - (ivc) 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.

## **6. OBLIGATIONS OF DOG OWNERS**

6.1 The obligations imposed on dog owners by this Bylaw require every owner of a dog -

- (a) To ensure that the dog is registered in accordance with this Bylaw, and that all relevant territorial authorities are promptly notified of any change of address or ownership of the dog
- (b) To ensure that the dog is kept under control at all times.
- (c) To ensure that the dog receives proper care and attention and is supplied with proper and sufficient food, water and shelter.
- (d) To ensure that the dog receives adequate exercise.
- (e) To take all reasonable steps to ensure that the dog does not cause a nuisance to any other person, whether by persistent and loud barking or howling or by any other means.

- (f) To take all reasonable steps to ensure that the dog does not injure, endanger, intimidate, or otherwise cause distress to any person.
- (g) To take all reasonable steps to ensure that the dog does not injure, endanger, or cause distress to any stock, poultry, domestic animal, or protected wildlife.
- (h) To take all reasonable steps to ensure that the dog does not damage or endanger any property belonging to any other person.
- (i) To pick up, remove, and dispose of any dog droppings.
- (j) To comply with the requirements of the Dog Control Act 1996 and of all regulations and bylaws made under that Act.

6.2 Dog owners are responsible for the total well-being of their dogs, including proper care and attention, exercise and feeding. Owners found being cruel and abusive, starving their dog(s) or otherwise neglecting their responsibility commit an offence under both the Dog Control Act 1996 and this Bylaw.

6.3 Nothing in this Bylaw limits the obligations of any owner of a dog to comply with the requirements of any other Act or of any regulations or bylaws regulating the control, keeping, and treatment of dogs.

## **7. DOG CONTROL OFFICERS**

7.1 The Council, shall appoint any person or persons as a Dog Control Officer to administer the provisions of:

- (a) This Bylaw;
- (b) The Dog Control Act 1996;
- (c) the Impounding Act 1955.

7.2 The Council, may also appoint such other staff as it considers necessary for the purpose of the Dog Control Act 1996.

## **8. WARRANT OF AUTHORITY**

8.1 The Council shall supply Dog Control Officers with a Warrant of Appointment.

8.2 Dog Control Officers and Dog Rangers shall carry, and shall produce if required to do so, their Warrant of Appointment and evidence of their identity.

## **9. POWER OF ENTRY**

9.1 Where any Dog Control Officer has good cause to suspect that an offence against the Dog Control Act 1996 or against this Bylaw made under the Act is being committed on any land or premises, the dog control officer, and all persons he or she calls to his or her assistance, may enter at any reasonable time onto the land or premises -

- (a) To inspect any dog for the time being appearing to be kept on that land or premises or to inspect the conditions in which any such dog is kept; and
- (b) If authorised under any other provision of the Dog Control Act 1996, to seize or take custody of any dog on the land or premises.

- 9.2 Where any Dog Control Officer has good cause to suspect that an offence against the Act or against this bylaw made under this Act has, at any time in the preceding 6 months, been committed in respect of any dog for the time being appearing to be kept on any land or premises, the dog control officer, and all persons he or she calls to his or her assistance, may enter at any reasonable time onto the land or premises -
- (a) To inspect any dog or premises; and
  - (b) If authorised under any other provision of the Dog Control Act 1996, to seize or take custody of any dog on the land or premises.

9.3 Nothing in this section shall authorise any dog control officer to enter any dwellinghouse unless -

- (a) He or she is authorised in writing to do so by a Justice, or Community Magistrate who shall not grant such an authority unless the Justice or Community Magistrate is satisfied that the requirements of subsection 9.1 or subsection 9.2 have been met; and
- (b) He or she is accompanied by a constable.

## **10. POWER TO FEED AND SHELTER DOGS**

10.1 A dog control officer or dog ranger who has reasonable grounds to suspect that a dog is without access to proper and sufficient food, water, or shelter may enter on any land or premises where the dog is present and do 1 or more of the following things:

- (a) supply the dog with food, water, or shelter.
- (b) enter onto the land or premises from time to time to continue to supply the dog with food, water, or shelter:
- (c) seize the dog and remove it from the land or premises.

10.2 A dog may be seized and removed under subsection 10.1(c) only if the dog control officer or dog ranger—

- (a) is satisfied that the dog is without access to proper and sufficient food, water, or shelter; and
- (b) has reasonable cause to suspect that (but for the food, water, or shelter supplied by the dog control officer or dog ranger) the dog will not be given access to proper and sufficient food, water, or shelter within the next 24 hours.

10.3 If a dog is seized under subsection 10.1(c), the dog control officer or dog ranger—

- (a) must give written notice in the prescribed form to the owner of the dog or, if the owner is not present, to the person for the time being appearing to be in charge of the property; and
- (b) may retain custody of the dog until such time as the dog control officer or dog ranger is satisfied that the dog will receive proper and sufficient food, water, or shelter from its owner.

10.4 For the purposes of subsection 10.3, if no person is present on the property, the dog control officer or dog ranger must leave the notice in a conspicuous place on the property.

- 10.5 All reasonable costs incurred in the seizure, custody, sustenance, and transport of a dog under this section may be recovered as a debt from the owner of the dog.
- 10.6 Section 70 of the Dog Control Act 1996 applies to a dog removed under subsection 10.1(c) as if the dog had been removed under section 56 of the Act; and accordingly section 70 of the Act applies with all necessary modifications.

## **11. POWER TO REQUEST INFORMATION ABOUT OWNER OR DOG**

- 11.1 A constable, dog control officer, or dog ranger may, for the purposes of this Bylaw, request the following persons to state his or her full name, date of birth, address, telephone contact number, and place of work (if applicable):

- (a) any person appearing to be in charge of a dog; or
- (b) any person appearing to be the occupier of any land or premises on which a dog for the time being is being kept.

- 11.2 If a person referred to in subsection 11.1(a) or (b) claims not to be the owner of the dog, the person must state the name, address, and place of work of the owner of the dog (if known).

- 11.3 Every person commits an offence and is liable on summary conviction to a fine not exceeding \$3,000 who, without reasonable excuse, fails or refuses to comply with a lawful request under subsection 11.1, or wilfully provides false information in response to a request to provide the information.

- 11.4 Any constable, dog control officer, or dog ranger who—

- (a) Has reasonable grounds to believe that an offence against subsection 11.2 of this section has been committed by any person; and
- (b) Has warned that person of the provisions of this subsection; and
- (c) Has reasonable grounds to believe that a further offence against subsection 11.2 of this section has been committed by that person subsequent to the warning; and
- (d) Has reasonable grounds for believing that an offence against any other section of this Act, or against any bylaw authorised by this Act, has been committed by the owner of the dog referred to in subsection 11.1 of this section,—

may seize and impound the dog and, in the case of a constable, may arrest that person without a warrant.

- 11.5 Power of constable, dog control officer, or dog ranger to request information about dog—

- (a) A constable, dog control officer, or dog ranger may, for the purposes of this Act, request the owner of a dog to state the name, gender, and a description of the dog.
- (b) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$3,000 who, without reasonable excuse, fails to comply with a lawful request under subsection 11.1, or wilfully provides false information in response to a request to provide the information.

## **12. SHELTER FOR DOGS**

- (a) The owner of any dog shall ensure that it is provided with a weather-proof place of shelter and where the dog is not kept in a house or outbuilding at night, it is provided with a weather-proof kennel with a floor area of at least 1 square metre constructed on dry ground and, in the case of a kennel without other means of confinement, provided with a fixed chain which allows the dog free movement about the kennel and such kennel or place of shelter or confinement shall be kept in a clean and sanitary condition with access to clean water.
- (b) No owner of any dog shall keep it beneath the floor of any residential building or in the case of a residential building which has more than one floor beneath the bottom or ground floor of that residential building.
- (c) No owner of any dog shall keep it on any premises in any kennel any part of which shall be or stand nearer than three metres to any boundary of those premises.
- (d) That the provisions of subclause 12.(c) herein shall not apply where the owner of any dog has obtained express consent in writing of the occupiers of adjoining properties to allow the kennels to be situated less than three metres but not closer than one metre from the intervening boundaries.

### **13. CONFINEMENT OF DOGS AT NIGHT**

- (a). During the period commencing not earlier than half an hour after sunset on each day and ending not later than half an hour before sunrise on the next day the owner of any dog domiciled in urban areas of the district shall keep it securely tied up or otherwise confined or on a lead within its property.
- (b) Where any dog is found in the district at large in breach of this clause, the ranger or any person authorised in writing by the Council (either generally or in any particular case or any constable) may impound the dog pursuant to Clause 20 of this Bylaw.
- (c) Clause 13A does not preclude people from walking dogs at night in accordance with the leashed requirements of this Bylaw (Clause 18).

### **14. CONTROL OF DOGS**

- (a) The owner or person for the time being in charge of any dog shall not cause or permit or allow it to enter or remain in or on part of any public place unless it is kept under continuous effective control while thereon by means of lead, container, or other efficient contrivance (see also Clause 36).

Dogs travelling in or on open decked vehicles are to be so restrained by a short lead, container or contrivance so as to effectively restrict its movements to the actual confines of the vehicle.

- (b) Notwithstanding the provisions of subclause (a) of this clause the Council may by resolution prohibit the entry of dogs onto any public place listed in the Second schedule.
- (c) Notwithstanding the provisions of subclause (a) of this clause the council may by resolution permit the exercising of dogs in or on any reserve listed in the First Schedule and specified in that resolution provided such dogs are kept under continual control whilst thereon.
- (d) No person shall take any dog in a public bath or swimming pool.

- (e) The owner or person for the time being in charge of any dog shall not cause or permit or allow such dog to enter or remain in or on any part of any camping ground operated under the jurisdiction of the Council, unless such dog is owned by the appointed Caretaker, or tenants of the Camp.
- (f) The provision of subclauses (a) and (b) hereof shall not apply to a working dog carrying out the work in respect of which the dog has been registered.
- (g) From 1 June 2004 dog owners must at all times ensure dogs on their owner's land or property, are under the direct control of a person, or are confined within the property so that it cannot freely leave of its own free will.

#### **15. FOULING IN PUBLIC PLACES**

No person being the owner or having the control of any dog shall permit the dog to foul any public place with droppings provided that no offence shall be deemed to have been committed against this bylaw where the person having control of the dog removes the droppings immediately. Where a public litter bin or similar receptacle is used to dispose of the droppings they must be suitably wrapped or contained to prevent fouling of such receptacle.

#### **16. MANGY OR DISEASED DOGS**

No person owning or having control or charge of any mangy or diseased dog shall take the same into any public place or permit or suffer such dog to enter or remain thereon unless being taken to a veterinary clinic.

#### **17. AGGRAVATION OF DOGS**

Any person shall be guilty of an offence against this Bylaw who behaves or acts in such a way so as to cause any dog in any public place and reserve to become restive or unmanageable.

#### **18. URBAN DOGS - LEASHED REQUIREMENTS**

All dogs in the urban streets of Levin, Foxton, Foxton Beach, Tokomaru, Shannon, Waitarere, Hokio, Ohau, Waikawa Beach and Manakau, unless in an unleashed dog exercise area, are required to be on a lead attached to the dog and held by the person in charge of the dog.

#### **19. LIMITATION OF NUMBER OF DOGS ON ANY PREMISES - ADDITIONAL DOG LICENCE REQUIREMENTS**

- (a) No person within the district shall without the consent in writing of the Council, keep or allow to be kept more than two dogs on any holding of less than 5000m<sup>2</sup> where such holding of less than 5000m<sup>2</sup> is situated in an area zoned for urban or residential use under the provisions of the Council's Operative District Scheme and in any other area from time to time proclaimed residential by the Council for the purposes of this Bylaw.
- (b) The preceding subclause shall not apply to any dogs under the age of three months.
- (c) The consent of the Council referred to in subclause (a) above may be issued as a licence upon or subject to any terms, conditions or restrictions as the Council may impose in any particular case.

- (d) Every application or such consent referred to in subclause (a) above shall be in writing addressed to the Council and signed by the applicant who shall give to the Council such further information as it may require. Every application shall be accompanied by the written consent of all adjoining owners and if granted shall be at the pleasure of the Council, and such approval is renewable annually.
- (e) Every person who commits any breach of the term conditions or restrictions imposed by the Council under subclause (c) above hereof shall be guilty of an offence against this Bylaw.

## **20. IMPOUNDING**

- (a) A Dog Control Officer or any Police Constable may impound a dog not wearing a collar having the proper registration label or disc thereon or attached thereto found at large in any public place or a dog whether or not it is wearing a collar having the proper label or disc thereon or attached thereto found at large in breach of any of the other provisions of this Bylaw.
- (b) The Council may from time to time by resolution fix the amount of payment to be made by the owner of any dog impounded pursuant to the provisions of this Bylaw of reasonable fees for sustenance of the dog while so impounded, for giving notice to the owner of the impounding and of a poundage fee.
- (c) If any dog is impounded pursuant to the provisions of this Bylaw the Dog Control Officer shall as soon as practicable thereafter give notice of the impounding to the owner at the address given by the owner when it was registered. A dog that has been impounded shall be released to its owner upon payment by the owner of all fees and costs incurred by the Council.

## **21. DISPOSAL OF IMPOUNDED DOGS**

If any dog impounded pursuant to this Bylaw is not claimed and all fees are not paid by the owner -

- (a) within seven (7) days after the owner has been personally notified of the impounding;  
or
- (b) in any case where the owner is unknown to the Council and cannot be found within such period of time as laid down by the Dog Control Act 1996, as amended from time to time, (the dog may be destroyed or sold 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 Bylaw.

## **22. PROBATIONARY OWNERS**

- 22.1 In accordance with the provisions of Section 21 of the Dog Control Act 1996, Council may cause any person to be classified as a Probationary Owner.
- 22.2 Any person classified as a probationary owner, and having been given written notice of that decision, may object to that classification, in writing, in accordance with section 22 of the Dog Control Act 1996.
- 22.3 The effect of a Probationary Owner classification is in accordance with the Dog Control Act 1996 -

- S23(1) for up to 24 months duration;
- S23(2) effect on owner's registered dogs;
- S23A dog owner education programme requirement;
- S24 Disposal requirements of unregistered dogs;
- S29 Every classification is in force throughout New Zealand.

### **23. DISQUALIFIED OWNERS**

- 23.1 In accordance with Section 25 of the Dog Control Act 1996, Council will disqualify a person from being the owner of a dog, unless satisfied disqualification is not warranted, and will instead classify the person as a probationary owner.
- 23.2 Any person disqualified from owning a dog, and having been given written notice of that decision, may object to that classification in writing in accordance with Section 26 of the Dog Control Act 1996.
- 23.3 The effect of disqualification is in accordance with the Dog Control Act 1996 -
- S25(3) For up to 5 years' duration;
  - S28(1)(a) Disposal of dogs by owner;
  - S29 Every classification is in force throughout New Zealand.

### **24. PROHIBITION ON IMPORT OF CERTAIN DOGS**

In accordance with Section 30A of the Dog Control Act 1996 it is unlawful to import any of the following dogs that belong wholly or predominantly to one or more breed or type of dog, including either live or semen, ova, or embryo -

- (a) American Pit Bull Terrier;
- (b) Dogo Argentino;
- (c) Brazilian Fila;
- (d) Japanese Tosa.

### **25. DANGEROUS DOGS**

- 25.1 The Horowhenua District Council shall classify as a Dangerous Dog -
- (a) any dog in respect of which the owner has been convicted of an offence under Section 57A(2) of the Dog Control Act 1996; and
  - (b) any dog which Council 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 animals, or protected wildlife.
- 25.2 Where any dog is classified as a dangerous dog under this Bylaw and the Dog Control Act 1996, Council shall give notice in the prescribed form of that classification to the owner.

## **26. MENACING DOGS**

- 26.1 The Horowhenua District Council may classify as a Menacing Dog any dog that has not been classified as a Dangerous Dog, but is considered to pose a threat to any person, stock, poultry, domestic animal, or protected wildlife because of -
- (a) any observed or reported behaviour of the dog (sworn affidavit required), or
  - (b) any characteristics typically associated with the dog's breed or type.
- 26.2 The Horowhenua District Council will classify as a Menacing Dog any dog belonging to the breed or type detailed in Schedule 4 of the Dog Control Act 1996, and as stated in Clause 24 of this Bylaw.
- 26.3 Where any dog is classified as a Menacing Dog under this Bylaw and the Dog Control Act 1996, Council shall give notice in the prescribed form of that classification to the owner.
- 26.4 Where a dog that has previously been classified as a menacing dog by Council, by either breed or type, or by incident, that is subsequently impounded by Council after being so classified, is required to be neutered at the owner's expense before it is released from the Pound.

## **27. MICROCHIPPING OF DOGS**

Dogs are required to be microchipped as follows:

- (a) All dogs first registered on or after 1 July 2006;
- (b) All dogs classified as Menacing or Dangerous between 1 December 2003 and 30 June 2006, within two months of 1 July 2006; and
- (c) All dogs released from Council's Pound, if impounded for the second time, after 1 July 2006.

## **28. BARKING DOGS**

- 28.1 Where a Dog Control Officer has received a complaint and has reasonable grounds for believing that a nuisance is being created by the persistent and loud barking or howling of any dog, the Dog Control Officer may:
- (a) Enter at any reasonable time upon the land or premises, other than a dwellinghouse, on which the dog is kept, to inspect the conditions under which the dog is kept; and
  - (b) Whether or not the Dog Control Officer makes such entry, give the owner of the dog a written notice requiring that person to make such reasonable provision on the property to abate the nuisance as shall be specified in the notice or, if considered necessary, to remove the dog from the land or premises.
- 28.2 Any person on whom notice is served under Clause 28.1(b) of this Bylaw may, within seven days of the receipt of the notice, object in writing to the Horowhenua District Council against the requirements of that notice, and the Council shall consider the objection and may confirm, modify, or cancel the notice.
- 28.3 No objection under this section shall be considered unless seven days notice of the date and time when and the place of which it is to be considered have been given to the

objector, who shall be entitled to be represented and to be heard and may submit evidence and call witnesses in support of his or her objection. Upon the determination of the objection, the Council shall give to the objector a further notice stating the decision, and, if the effect of the decision is to modify the requirements of the Dog Control Officer, shall set out those requirements as so modified.

- 28.4 As from the lodging of an objection with the Council and pending the receipt of a further notice upon the determination of the objection, the notice setting out the requirements that are the subject of the objection shall be deemed to be suspended.

## **29. REMOVAL OF BARKING DOG CAUSING DISTRESS**

- 29.1 This section shall apply in any case, where at any time after a notice under S55 of the Dog Control Act 1996 (Section 28.1(b) of this Bylaw) has been issued:

- (a) The notice has not been cancelled, and
- (b) The notice has not been complied with, and
- (c) A Dog Control Officer or Dog Ranger has received a further complaint and has reasonable grounds for believing that the nuisance in respect of which the noise is issued is continuing and is causing distress to any person.

- 29.2 In any case, the Dog Control Officer may enter upon the land or premises on which the dog is kept and remove the dog and the dog shall be kept in custody under Section 70 of the Dog Control Act 1996. Note: Nothing in this section shall authorise any Dog Control Officer to enter any dwellinghouse unless:

- (a) He or she is authorised in writing to do so by a Justice, who shall not grant such an authority unless the Justice is satisfied that the requirements of section 29.1 of this Bylaw have been met; and
- (b) He or she is accompanied by a constable.

- 29.3 Where a dog is removed pursuant of this section, the Dog Control Officer shall give written notice in the prescribed form to the owner of the dog or, if the owner is not present, the person for the time being appearing to be in charge of the land or premises and, if no person is present on the property, shall leave such notice in some conspicuous place on the land or premises.

## **30. DOGS ATTACKING PERSONS OR ANIMALS**

- 30.1 A person may, for the purpose of stopping an attack, seize or destroy a dog if—

- (a) the person is attacked by the dog; or
- (b) the person witnesses the dog attacking any other person, or any stock, poultry, domestic animal, or protected wildlife.

- 30.2 The owner of a dog that makes an attack described in subsection 30.1 above commits an offence and is liable on summary conviction to a fine not exceeding \$3,000 in addition to any liability that he or she may incur for any damage caused by the attack.

- 30.3 If, in any proceedings under subsection 30.2, the Court is satisfied that the dog has committed an attack described in subsection 30.1 and that the dog has not been destroyed, the Court must make an order for the destruction of the dog unless it is satisfied that the circumstances of the offence were exceptional and do not warrant destruction of the dog.

- 30.4 If a person seizes a dog under subsection 30.1, he or she must, as soon as practicable, deliver the dog into the custody of a dog ranger or dog control officer.
- 30.5 If a dog control officer or dog ranger has reasonable grounds to believe that an offence has been committed under subsection 30.2, he or she may—
- (a) seize and take custody of the dog; or
  - (b) if seizure of the dog is not practicable, destroy the dog.
- 30.6 A dog control officer or dog ranger may enter land or premises for the purposes of subsection 30.5, but may enter any dwellinghouse on the land or premises only if—
- (a) he or she is in fresh pursuit of a dog that—
    - (i) he or she has reasonable grounds to believe has committed an attack described in subsection 30.1; and
    - (ii) has been identified by a witness to the attack; or
  - (b) he or she is authorised in writing to do so by a Justice, who must not grant an authority unless the Justice is satisfied that there are reasonable grounds to believe that an offence has been committed under subsection 30.2, and, in the case of a dog control officer, he or she is accompanied by a constable.
- 30.7 To avoid doubt, a member of the police may exercise the powers conferred on a dog control officer or dog ranger by this section.
- 30.8 This section does not apply in respect of a dog that—
- (a) is kept, or is being used, or is certified for use by a specified agency; and
  - (b) is being used for the purpose of carrying out in a lawful manner any function, duty, or power of that agency.
- 31. DOGS RUSHING AT PERSONS, ANIMALS, OR VEHICLES—**
- 31.1 This section applies to a dog in a public place that—
- (a) rushes at, or startles, any person or animal in a manner that causes—
    - (i) any person to be killed, injured, or endangered; or
    - (ii) any property to be damaged or endangered; or
  - (b) rushes at any vehicle in a manner that causes, or is likely to cause, an accident.
- 31.2 If this section applies,—
- (a) the owner of the dog commits an offence and is liable on summary conviction to a fine not exceeding \$3,000 in addition to any liability that he or she may incur for any damage caused by the dog; and
  - (b) the court may make an order for the destruction of the dog.
- 31.3 A dog control officer or dog ranger who has reasonable grounds to believe that an offence has been committed under subsection 31.2(a) may, at any time before a decision of the

court under that subsection, seize or take custody of the dog and may enter any land or premises (except a dwellinghouse) to do so.

This Section does not apply in respect of a dog that -

- (a) is kept, or is being used, or is certified for use by a specified agency; and
- (b) is being used for the purpose of carrying out in a lawful manner any function, duty, or power of that agency.

### **32. DOGS CAUSING SERIOUS INJURY -**

- (a) The owner of any dog that attacks any person or any protected wildlife and causes -
  - (i) Serious injury to any person; or
  - (ii) The death of any protected wildlife; or
  - (iii) Such injury to any protected wildlife that it becomes necessary to destroy the animal to terminate its suffering, -

commits an offence and is liable on conviction to imprisonment for a term not exceeding 3 years or a fine not exceeding \$20,000, or both, and the Court shall, on convicting the owner, make an order for the destruction of the dog unless satisfied that the circumstances of the attack were exceptional and do not justify destruction.

- (b) This section does not apply in respect of a dog that -
  - (i) is kept, or is being used, or is certified for use by a specified agency; and
  - (ii) is being used for the purpose of carrying out in a lawful manner any function, duty, or power of that agency.

### **33. ADDITIONAL PROVISIONS OF THE DOG CONTROL ACT 1996**

- (a) Seizure or Destruction of Dog at large in vicinity of protected wildlife. (Section 59 of the said Act).
- (b) Seizure or destruction of dog running at large among stock or poultry. (Section 60 of the said Act).
- (c) Orders relating to dog seen worrying stock. Failure to comply with Court Order, on conviction, a fine not exceeding \$150 per day for every day of default. (Section 61 of the said Act).
- (d) Allowing Dogs Known to be Dangerous to Be At Large Unmuzzled (S62 of the said Act).
- (e) Owner liable for damage done by dog. (Section 63 of the said Act).

### **34. DOGS CAUSING GENERAL NUISANCE - DAMAGE TO RUBBISH BINS/BAGS**

Dogs causing a general nuisance by scavenging in rubbish bags commit an offence against this Bylaw, and owners of the dog(s) are liable to an infringement fine.

### **35. DOG OBEDIENCE TRAINING REQUIREMENTS**

- 35.1 For any breach against this Bylaw or the Dog Control Act 1996, the Council may cause the owners of the dog(s) to arrange and undertake Dog Obedience Training for their dog(s), conducted by a recognised dog obedience school, at the cost of the owner, as an optional alternative to the issuing of an infringement notice for minor events.
- 35.2 On the successful completion of this course, the owner is to produce a certificate of satisfactory completion to Council, at which time details of the initial offence will be deleted from Council records.
- 35.3 Failure to satisfactorily complete this training requirement within a specified timeframe, will result in the infringement process being processed.

## **36. RECOGNISED DOG OBEDIENCE GROUPS**

Dogs are allowed unleashed on grounds used by recognised dog obedience groups or similar clubs and organisations when conducting training, display, or similar type activities, including dog trials and public awareness activities.

As a consequence, no offence is committed against this Bylaw in respect of any 'leashed' requirements outlined in this Bylaw, when these activities are being conducted.

## **37. REGISTRATION AND OWNERSHIP**

- 37.1 The Horowhenua District Council shall from time to time set fees for the Registration and Control of Dogs, and publicly notify these fees in accordance with Section 37(6) of the Dog Control Act 1996.
- 37.2 Where any person applies for any new dog to be registered after the 1st day of the second month of any registration year, the fee payable shall be calculated on the basis of the number of complete months remaining in the registration year, as if the fee were payable in equal monthly instalments. All dogs must be registered on attaining the age of 3 months.

Where a dog dies during the registration year, the appropriate part of the fee shall be refunded, upon the written request of the owner.

Any dog not wearing a collar having a current registration label or disc attached shall, until the contrary is proved, be deemed to be unregistered.

In any proceedings under this bylaw or the Dog Control Act 1996, the proof that a dog was duly registered, or is not over the age of 3 months, shall be on the defendant.

Where the ownership of a registered dog is changed the registration shall continue in force, however, both the previous and the new owner shall, within 14 days of such change, inform the District Council in writing of:

- (a) The change details of ownership; and
- (b) The residential address of the new owner; and
- (c) The address at which the dog will ordinarily be kept.

Where the owner of any dog changes his or her address within the District or to any other District, they shall within 14 days, give notice in writing of their change of address.

## **38 . OFFENCES AND PENALTIES**

Every person who allows anything whatsoever contrary to or otherwise than as provided by this Bylaw commits an offence and is liable on summary conviction to the penalty prescribed by Section 242(4) of the Local Government Act 2002.

**ATTESTATION**

The foregoing Bylaw was made by the Horowhenua District Council by a resolution passed on the 21<sup>st</sup> day of July 2004, in accordance with Section 20 of the Dog Control Act 1996 following use of the Special Consultative Procedure used in the consideration of and subsequent adoption of the Horowhenua District Council Dog Control Policy on 9 June 2004.

The Common Seal of the )  
Horowhenua District Council )  
was hereunto affixed pursuant to )  
a resolution of the said )  
Council in the presence of )

..... His Worship the Mayor

..... Chief Executive

**SCHEDULES**

**FIRST : AREAS WHERE DOGS ARE PROHIBITED**

**SECOND : ALLOWABLE AREAS - LEASHED AND UNLEASHED**

**THIRD : SCHEDULE OF INFRINGEMENT FEES AND OFFENCES**

## FIRST SCHEDULE

### HOROWHENUA DISTRICT COUNCIL DOG CONTROL BYLAW 2004 AREAS WHERE DOGS ARE PROHIBITED

#### AREAS WHERE DOGS ARE PROHIBITED

##### **A. LEVIN TOWN (during shop trading hours)**

The owner of any dog shall keep and prevent the same from being in that area of Levin Town defined as being the Oxford Street shopping area being all that public area including road, footpath, accessway, reserve, and shopping mall entrance between the Durham Street intersection with Oxford Street and Stanley Street intersection with Oxford Street, being more particularly known as Oxford Street, Levin.

**PROVIDED HOWEVER** that exception to this provision is given to:

- (a) Police dogs present in the area in connection with Police work, or Dog Search Team work.
- (b) Dogs present in the area in connection with their function as guide dogs, hearing ear dogs, or being a certified companion dog, or for any other authorised reason.
- (c) Dogs otherwise authorised for specified purposes.

##### **B. SHANNON URBAN AREA (during shop trading hours)**

- (i) Plimmer Terrace - Ballance Street to Grey Street.
- (ii) Ballance Street - Plimmer Terrace to Venn Street.

**PROVIDED HOWEVER** that exception to this provision is given to:

- (a) Police dogs present in the area in connection with Police work or Dog Search Team work.
- (b) Dogs present in the area in connection with their function as guide dogs, hearing ear dogs, or being a certified companion dog or for any other authorised reason.
- (c) Dogs otherwise authorised for specified purposes.

##### **C. FOXTON TOWN (during shop trading hours)**

"Town" defined as being the Main Street.

"SHOPPING AREA" being all that public area including road, footpath, accessway, reserve shopping mall between the Ravensworth Street intersection with Main Street and the Union Street intersection with Main Street, being more particularly known as Main Street, Foxton,

**PROVIDED HOWEVER** that exception to this provision is given to:

- (a) Police dogs present in the area in connection with Police work or Dog Search Team work.
- (b) Dogs present in the area in connection with their function as guide dogs, hearing ear dogs, or being a certified companion dog or for any other reason authorised.
- (c) Dogs otherwise authorised for specified purposes.

**D. RESERVES, PARKS AND OTHER AREAS (AT ALL TIMES)**

**TOKOMARU**

Tokomaru Domain - during sporting or community usage times.  
Horseshoe Bend Reserve

**SHANNON**

Shannon Domain  
Hyde Park  
Te Maire Park (Railway Reserve area)

**FOXTON**

Easton Park, including rugby grounds, swimming pool, and outdoor play area  
Victoria Park sportsgrounds  
Stuart Donnelly Park

**FOXTON BEACH**

Foxton Surf Beach (between flagged/patrolled area) - during the period of Daylight Saving times.  
Holben Parade Reserve (that area generally contained within Seabury Avenue, Nash Parade and Holben Parade).  
Bird Sanctuary area of Manawatu Estuary.

**WAITARERE**

Waitarere Domain  
Waitarere Beach (between flagged/patrolled area) - during the period of Daylight Saving times.  
Rua Avenue Play Area  
Waitarere Beach Motor Camp (except for Caretaker and Camp tenants but restrained on a leash at all times)  
Holmwood Park (Minute 6772 dated 7 October 1998)

**LEVIN**

Green Avenue Reserve  
Parsons Avenue Reserve  
Public Gardens  
Weraroa Reserve  
Playford Park Motor Camp (except for Caretaker and Camp tenants but restrained on a leash at all times)  
Jubilee Park Play area  
Donnelly Park Sportsgrounds  
Western Park  
Levin Domain  
Solway Park - to be reviewed as a defined "leashed area" if fence erected separating play area.  
Playford Park - except for designated area.  
Waiopēhu Reserve  
Muaopoko Park - Although Council is not responsible for this Park, it is shown as a banned area in accordance with the requirements of the Horowhenua Lake Domain Board Bylaws, which places restrictions on Dogs unless authorised by that Board.

**MANAKAU**

Manakau Domain

**OPIKI**

Okunui Domain

**MAKERUA**

Makerua Reserve

## SECOND SCHEDULE

### HOROWHENUA DISTRICT COUNCIL DOG CONTROL BYLAW 2004 AREAS WHERE DOGS ARE ALLOWED

<b>AREAS WHERE DOGS ARE ALLOWED (LEASHED AND/OR UNLEASHED)</b>		
	<b>LEASHED</b>	<b>UNLEASHED</b>
<b>Tokomaru</b>	1. Residential streets (unless prohibited)	1. Tokomaru Domain when not being used for sporting or other community uses
<b>Shannon</b>	1. Residential streets (unless prohibited) 2. Shannon Urban prohibited area (after shop trading hours) 3. Shannon Cemetery 4. Moynihan Park	1. Nil
<b>Foxton</b>	1. Residential streets (unless prohibited) 2. Foxton Town prohibited area (after shop trading hours) 3. Foxton Cemetery	1. Victoria Park excluding sportsgrounds 2. River Loop reserve
<b>Foxton Beach</b>	1. Residential streets (unless prohibited) 2. Hennessey Street/Lowe Avenue grounds 3. Hartley Street Esplanade	1. Foxton Beach outside of patrolled area 2. Cousins Avenue Plantation Reserve
<b>Waitarere</b>	1. Residential streets (unless prohibited) 2. Esplanade Reserve 3. Waitarere Beach Motor Camp (Caretaker and Camp Tenants only)	1. Waitarere Beach outside of patrolled area
<b>Hokio</b>	Residential streets (unless prohibited)	Hokio Beach
<b>Manakau</b>	1. Manakau cemetery 2. Driscoll Reserve 3. Residential streets (unless prohibited)	1. NIL
<b>Levin</b>	1. Residential streets (unless prohibited) 2. Levin Town prohibited area (after shop trading hours) 3. Iona Park 4. Cambridge Street Rose Gardens (including Railway Reserve Land) 5. Tiro Tiro Road Cemetery 6. Lincoln Place Reserve 7. Avenue Cemetery 8. Maire Park 9. Railway Reserve Levin North (Kiosk) 10. Railway Reserve (Liverpool Street to Tararua Road) 11. Jubilee Park (defined area outside of play equipment area) 12. Playford Park Motor Camp (Caretaker and Camp tenants only) 13. Morgan Crescent Reserve 14. Prouse Bush.	1. Kowhai Park 2. Argyle Avenue Reserve 3. Kimberley Reserve (1) 4. Gladstone Reserve (1) 5. Cambridge Street Park 6. Kennedy Drive Park 7. Playford Park - defined area  <u>Notes:</u> (1) Owners are to ensure dogs using both Gladstone and Kimberley Reserves are kept away from: •Recognised swimming holes/areas used by the public, and •any areas of bush
<b>Mangaore</b>	1. Residential streets (unless prohibited) 2. Mangaore Park	NIL
<b>Ohau</b>	1. Residential streets (unless prohibited) 2. Ohau Domain	1. Parikawau/River Reserve
<b>Waikawa</b>	1. Residential streets (unless prohibited)	1. Waikawa River to the south of the Waikawa river mouth

<b>PROTECTED WILDLIFE IN PUBLIC PLACES</b>		
<b>Public Place</b>	<b>Protected Wildlife Present</b>	<b>Control</b>
Lake Horowhenua	NZ Scaup Pukeko	On a leash
Manawatu Estuary Foreshore	Wrybill Turnstone Sharp-tailed Sandpiper Lesser Knot Curlew Sandpiper Red-necked Stint Banded Dotterel Variable Oystercatcher Bar Tailed Godwit Asiatic Whimbrel Least Golden Plover Greenshank Marsh Sandpiper	On a leash
Waikawa River mouth and Beach from Waikawa to Ohau and Ohau Estuary	Variable Oystercatcher	On a leash

**NOTE:**

1. All HDC Cemetery areas in the District are to be “leashed” areas for dogs.
2. Dogs are also allowed "unleashed" on grounds used by recognised dog obedience groups or similar clubs and organisations, when conducting training, display, or other similar type activities, including 'dog trials' and public awareness activities.

## THIRD SCHEDULE

### SCHEDULE OF INFRINGEMENT FEES FOR OFFENCES AGAINST

#### THE DOG CONTROL ACT 1996, THE DOG CONTROL AMENDMENT ACT 2003; AND THE HOROWHENUA DISTRICT COUNCIL BYLAW 2004

#### Infringement Offences and Fees

<b>Section</b>	<b>Brief description of offence</b>	<b>Infringement fee (\$)</b>
18	Wilful obstruction of dog control officer or ranger	750
19(2)	Failure or refusal to supply information or wilfully providing false particulars	750
19A(2)	Failure to supply information or wilfully providing false particular about dog	750
20(5)	Failure to comply with any bylaw authorised by the section	300
28(5)	Failure to comply with effects of disqualification	750
32(2)	Failure to comply with effects of classification of dog as dangerous dog	300
32(4)	Fraudulent sale or transfer of dangerous dog	500
33E(2)	Failure to comply with effects of classification of dog as menacing dog	300
36A(6)	Failure to implant microchip transponder in dog	300
41	False statement relating to dog registration	750
42	Failure to register dog	300
46(4)	Fraudulent procurement or attempt to procure replacement dog registration label or disc	500
48(3)	Failure to advise change of dog ownership	100
49(4)	Failure to advise change of address	100
51(1)	Removal, swapping, or counterfeiting of registration label or disc	500
52A	Failure to keep dog controlled or confined	200
53(1)	Failure to keep dog under control	200
54(2)	Failure to provide proper care and attention, to supply proper and sufficient food, water, and shelter, and to provide adequate exercise	300
54A	Failure to carry leash in public	100
62(4)	Allowing dog known to be dangerous to be at large unmuzzled or unleashed	300