



Planning & Regulatory Manager's Report – March 2005

Building Control

More and more work is being completed due to the 2004 Building Act.

Work included:

- Meetings with other neighbouring Territorial Authorities on work sharing arrangements, certification of Building Authorities and Policies on earthquake prone buildings etc.
- Extra training and seminars attended.
- Additional funding in the draft LTCCP. Expenditure increase for training and increase in building fees.
- Computer software upgrading.
- Keeping up with all the publications and discussions with colleagues.

Listed below are transitional arrangements:

30 November 2004

- The Building Industry Authority ceased to exist and the transitional provisions surrounding the dissolution of the Authority and the regulation-making powers under the Building Act 2004 began. The provisions setting out the functions of the Chief Executive began, including the obligation to review the Building Code.
- The obligation of territorial authorities to adopt a policy within 18 months on dangerous, earthquake-prone or insanitary buildings began.
- The licensing regime for building practitioners began.
- On 30 November 2004 the Building Regulations 2004 (except Regulations 5, 8 and part 2 of the Schedule) came into force.

30 November 2004 – 31 March 2005

The Chief Executive must perform the functions and duties, and exercise the powers of, the Authority under the Building Act 1991.

31 March 2005

- The Building Act 1991 is repealed. Apart from a few sections relating to Licensed Building Practitioners (LBPs), the rest of the Building Act 2004 comes into force. This includes all the building controls provisions relating to building consents, code compliance certificates and Compliance Schedules, including the transitional provisions.
- On 31 March the Building Regulations 1992 (except Regulation 3 and the First Schedule) are revoked.

30 November 2004 – 31 May 2006

Territorial authorities and regional authorities must apply to register as building consent authorities (BCAs). Building certifiers approved under the Building Act 1991 may apply to be registered as BCAs.

31 May 2006

Territorial authorities must have adopted a policy on dangerous, earthquake-prone or insanitary buildings.

After 30 November 2007

Only BCAs or territorial authorities registered under the Building Act 2004 may perform functions relating to building control.

30 November 2009

Restricted building work must be carried out or supervised by a Licensed Building Practitioner. On this date all the sections of the Building Act 2004 have come into force and the transitional period ends.

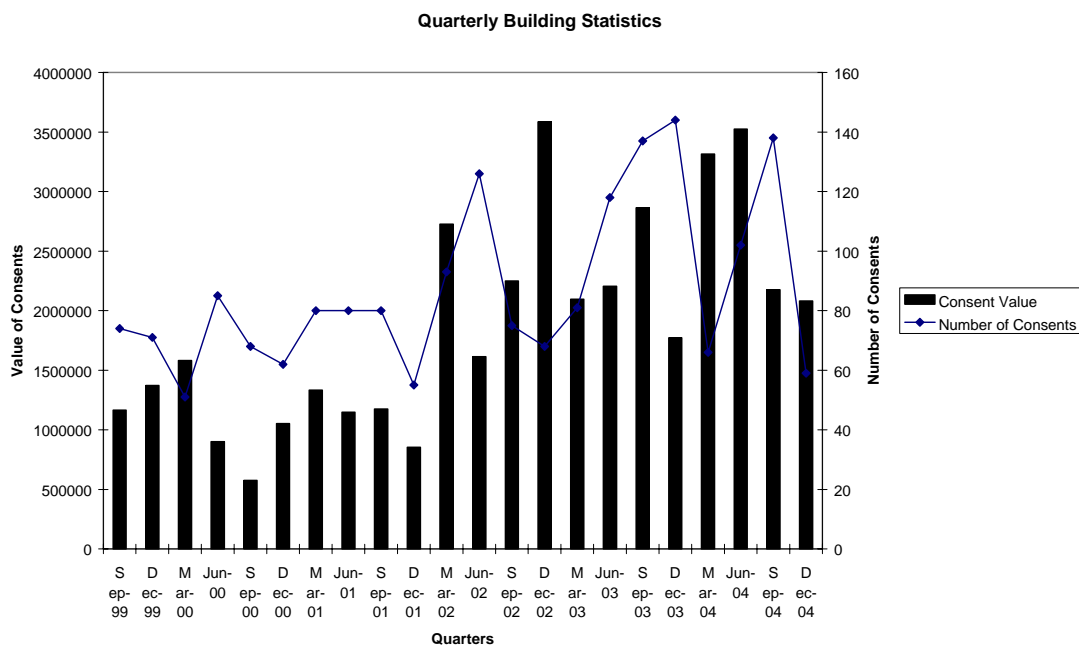
More detailed transitional provisions

These can be found in sections 429-450 of the Building Act 2004, which includes the transitional arrangements for:

- Determinations
- Levies
- Project Information Memorandum and building consent applications made under the 1991 Act but not yet issued
- Notices to Rectify
- Code Compliance Certificates
- Certificates of Acceptance
- Compliance Schedules
- Building Code Compliance Documents
- Other matters.

Building Statistics

The consent numbers have fallen over the last quarter to 59. Values are down to just over 2,000,000.



Dog Microchipping

The Department of Internal Affairs has advised that

“Wellington-based software development firm Equinox has been awarded the contract to develop a national database that will hold information about dogs in New Zealand.

The Department of Internal Affairs is managing the National Dog Database project, as required by the Dog Control Amendment Act 2003. The database will hold information about the location and identity of dog owners and their dogs. This information is currently collated and held by individual local authorities but is not available centrally. The database, which will be operational from mid 2006, will give dog control officers access to information about dogs and their owners throughout the country.

The Department will work with Equinox to develop a detailed plan for the development and building of the database. It is anticipated that testing of the central database will begin in June, and that from July there will be testing of its interfaces with a representative sample of local authorities, prior to the launch of the database in May 2006.

The Department is also responsible for developing policies around the microchipping of dogs. From 1 July 2006, all dogs first registered on or after that date and those classified as menacing or dangerous since the Act was introduced in December 2003, will have to be microchipped. This information will be held in the National Dog Database.”

As Councillors will know there will have to be provision in the LTCCP for the extra costs in microchipping . Hopefully before the LTCCP is finalised I will have a better idea of the costs.

Listed below are requirements of the Dog Control Act which relates to the National Dog Database and microchipping:

“35B Levy to fund costs of national dog control information database

- “(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, impose a levy on territorial authorities in each financial year to fund the costs of maintaining the national dog control information database.
- “(2) Subsection (1) does not apply to the costs of establishing the national dog control information database.
- “(3) The order—
 - “(a) must specify the amount of the levy or the way that the levy must be calculated; and
 - “(b) may authorise—
 - “(i) the deduction of over-recoveries in respect of a financial year from a levy payable in subsequent financial years; or
 - “(ii) the addition of under-recoveries in respect of a financial year to a levy payable in subsequent financial years; and
 - “(c) may prescribe how and when the levy must be paid or collected.
- “(4) A territorial authority must pay a levy required by regulations made under subsection (1).
- “(5) The amount of unpaid levy is recoverable in a court of competent jurisdiction as a debt due to the Crown.
- “(6) An order made under subsection (1) is a regulation under the Regulations (Disallowance) Act 1989.”

24 New section 36A inserted

The principal Act is amended by inserting, after section 36, the following section:

“36A Microchip transponder must be implanted in certain dogs

- “(1) This section applies to a dog that—
 - “(a) is classified as dangerous under section 31 on or after 1 December 2003; or
 - “(b) is classified as menacing under section 33A or section 33C on or after 1 December 2003; or
 - “(c) is registered for the first time on or after 1 July 2006.
- “(2) The owner of the dog must, for the purpose of providing permanent identification of the dog, arrange for the dog to be implanted with a functioning microchip transponder of the prescribed type and in the prescribed manner.

- “(3) Subsection (2) is complied with by the owner—
- “(a) for a dog that is classified as dangerous or menacing, by making the dog available, in accordance with the reasonable instructions of the territorial authority, for verification that it has been implanted with a functioning microchip transponder of the prescribed type and in the prescribed location:
- “(b) for a dog that is registered for the first time on or after 1 July 2006, by -
- “(i) making the dog available, in accordance with the reasonable instructions of the territorial authority, for verification that it has been implanted with a functioning microchip transponder of the prescribed type and in the prescribed location; or
- “(ii) providing to the territorial authority a certificate issued by a registered veterinary surgeon certifying—
- “(A) that the dog is or has been implanted with a functioning microchip transponder of the prescribed type and in the prescribed location; or
- “(B) that, for the reasons that are specified in the certificate, the dog will not be in a fit condition to be implanted with a functioning microchip transponder of the prescribed type and in the prescribed location before a date specified in the certificate.
- “(3A) A certificate issued by a registered veterinary surgeon under subsection (3)(b)(ii) must include the following information:
- “(a) the unique identifier of the microchip transponder (if subsection (3)(b)(ii)(A) applies); and
- “(b) the name and sex of the dog; and
- “(c) a physical description of the dog, which may include the breed, the colour, and any distinguishing marks; and
- “(d) if the dog is registered, the registration number of the label or disc issued for the dog; and
- “(e) the name, date of birth, and address of the owner of the dog.
- “(4) If a certificate under subsection (3)(b)(ii) is produced to the territorial authority, the owner must produce to the territorial authority, within 1 month after the date specified in the certificate, a further certificate under subsection (3)(b)(i).
- “(5) The owner must comply with subsection (2) -
- “(a) within 2 months from 1 July 2006, if the dog is classified as dangerous or menacing on or after 1 December 2003 but before 1 July 2006; or
- “(b) within 2 months after the date on which the dog is classified as dangerous or menacing or is registered (as the case may be), in any other case.
- “(5A) Subsection (2) does not apply if -
- “(a) as a requirement of this Act, the dog has been previously implanted with a functioning microchip transponder of the prescribed type and in the prescribed location; or
- “(b) in any other case, the territorial authority has verified that the dog has been implanted with a functioning microchip transponder of the prescribed type and in the prescribed location.
- “(6) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$3,000 who fails to comply with subsection (2) or subsection (5).
- “(7) This section does not apply to a dog to which section 43(1)(a) applies, but no such dog may be registered unless it is first implanted with a microchip transponder of the prescribed type and in the prescribed manner.”

New Dog Control Policy & Bylaw

Attached are the very first drafts of the Council, Dog Control Policy and Bylaw (replacing the existing policy and bylaw).

The Department of Conservation is currently being asked to amend their sections within the documents.

If Councillors have suggestions for changes, improvements, even grammar and spelling improvements, please see me with them within the next couple of weeks.

I can then incorporate them into the next drafts for Council consideration at the April Environmental Committee Meeting.

At that meeting, Council itself, will make changes it considers appropriate and put the proposed policy and bylaw out to the public for the normal submission process.

Below is some relevant information on the Policy and Bylaw:

INTRODUCTION

The Dog Control Amendment Act 2003 requires the Waimate District Council to review its Dog Policy. The amendment introduces new measures to control breeds of dogs that are considered to be dangerous and also introduces new methods of dog identification. Once a new dog control policy is adopted, the Council will have 60 days in which to introduce a new bylaw that clearly reflects the policy.

BACKGROUND

A number of high profile dog attacks in the last few years has resulted in the Government introducing the Dog Control Amendment Act 2003, that classifies some breeds and breed types as being dangerous and requires microchips to be inserted as a means of identification. It also places the onus on territorial authorities to develop policies that will minimise the danger, distress and nuisance caused by dogs to the general community and to avoid the inherent danger in allowing dogs to have uncontrolled access to public places that are frequented by children.

APPROPRIATENESS OF BYLAW

Before proceeding with the development of a bylaw, s.155 of the Local Government Act 2002 requires the Council to determine if the bylaw is appropriate. Section 10(6)(a) of the Dog Control Act 1996 requires the Council to make the necessary bylaws to effect the Dog Control Policy. The Council must therefore determine whether or not the proposed bylaw will fairly allow the objectives of the Act, through its policy, to be effected.

The objectives of the proposed policy include the avoidance of the danger of allowing uncontrolled dogs, access to public places used by children. The proposed changes designate the playground areas and Waimate shopping area, a place frequented by children all year, as a specified area prohibited to dogs.

The third change is to allow temporary closure of areas for wildlife, stock, or other legitimate areas, is another way of reducing the potential for conflict between dogs, people and/or other animals as circumstances dictate.

The proposed bylaw is considered appropriate to effect the provisions of the policy.

NEW ZEALAND BILL OF RIGHTS

The Council must also take implications under the New Zealand Bill of Rights Act 1990 into consideration. The only section that needs to be considered is:

- s.18(1) – The right of freedom of movement in New Zealand

The proposed bylaw will prevent people walking their dogs in specified public places. However, the Dog Control Act states that the territorial authority must have regard to “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 section 20(1)(a) of the Act, grants territorial authorities the ability to do this by prohibiting dogs from specified public places.

Section 4 of the New Zealand Bill of Rights Act allows other statutes to have provisions that are contradictory to the Bill of Rights. It states:

“4. Other enactments not affected – No court shall, in relation to any enactment (whether passed or made before or after the commencement of this Bill of Rights),

- a) Hold any provision of the enactment to be impliedly repealed or revoked, or to be in any way invalid or ineffective; or
- b) Decline to apply any provision of the enactment –

by reason only that the provision is inconsistent with any provision of this Bill of Rights.”

Although dog owners will be prevented from taking their dogs to the specified prohibited areas, the New Zealand Bill of Rights Act does not prevent the Council from specifying such places. The areas are reasonable in that they will avoid conflict, as much as reasonably practicable, between people, especially children, and dogs.

After considering all matters it is believed that the Council is justified in specifying the named public places as being prohibited to dogs to meet the objectives of the Dog Control Act.

Brent Donaldson
Planning & Regulatory Manager – 18 February 2005

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CONTROL OF DOGS BYLAW

2005

5 CONTROL OF DOGS

5.1 Definitions

5.2 Shelter for Dogs

5.3 Control of Dogs

5.4 Dog Exercise Area

5.5 Public Places in which Dogs are Prohibited

5.6 Fouling in Public Places

5.7 Infectious or Infested Dogs

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5.12 Dog Control Fees

5.13 Amendment of Schedules

SCHEDULE

(A) Designated Dog Exercise Areas

(B) Tracks and Reserves Where Dogs Are Allowed

(C) Areas Where a Hunting Permit is Required

(D) Areas Where Dogs Are Prohibited

NOTE

It is recommended that Council's Control of Dogs Bylaw should also be read in conjunction with the Dog Control Act 1996 and its amendments, and Council Dog Control Policy.

CONTROL OF DOGS

WAIMATE DISTRICT COUNCIL DOG CONTROL BYLAW 2005

Former Bylaws Repealed

Section 5 of the Waimate District Council Dog Control Bylaw 1997 on Control of Dogs is hereby repealed and all bylaws of the Waimate District Council already in force shall be read subject to this bylaw. 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.

5.1 Definitions

Act – means the Dog Control Act 1996

Animal Control Officer – has the same meaning as ‘Dog Control Officer’ as appointed under section 11 of the Act.

Owner – means every person who:

- (a) Owns a dog; or
- (b) Has possession of the dog, whether the dog is at large or in confinement, otherwise than for the sole purpose of restoring a lost dog to its owner; or
- (c) Is the parent or guardian of and shares a household with a person under the age of 16 years who is the owner of the dog pursuant to paragraph (a) or (b) of this definition:

But does not include any person who has seized or taken custody of the dog under the Dog Control Act 1996 or the Animal Protection Act 1960 or any regulation made under either of those Acts.

Public Place – 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 includes any aircraft, hovercraft, ship or ferry or other vessel, train or vehicle carrying or available to carry passengers for reward.

Rural Dog - means those dogs residing in the area defined in the Waimate District Plan as zoned Rural.

Urban Dog - means those dogs residing in the area defined in the Waimate District Plan as zoned Residential or Business.

Urban Premises – Property within the Urban and Business Zones as defined by the Waimate District Plan.

Working Dog – means:

- any guide dog, hearing ear dog, or companion dog
- any dog:
 - 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,
 - a collie dog (heading, huntaway or handy) that is kept solely or principally for the purposes of herding or driving stock
 - 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.
 - declared by resolution of the territorial authority to be a working dog for the purposes of the 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.

5.2 Shelter for Dogs

(1) The owner of any dog shall provide for it a weatherproof kennel or place of confinement of adequate size with access to clean water, constructed on well-drained ground and, in the case of a kennel without other means of confinement, provided with a fixed chain or running wire which allows the dog free movement about the kennel. All kennels or places of confinement shall be kept in a reasonable, clean and sanitary condition. A place of confinement may include a dwelling.

(2) Animal Control Officers will have discretion to determine what is reasonable.

(3) No owner of any dog shall keep it on any premises in any kennel or place of confinement, other than a dwelling, any part of which is nearer than two metres to any boundary of those premises.

5.3 Control of Dogs on a Leash

(1) The owner and any person for the time being having charge of any dog shall ensure that the dog does not enter or remain in any public place unless it is kept on a leash, chain or lead which is in turn secured or held so that the dog cannot break loose.

Except

That a dog may be exercised without being restrained during the hours commencing half an hour before sunrise and half an hour after sunset in any public place where dogs are allowed other than a road, street or prohibited area. The dog must be under continuous control whilst being exercised. For the purpose of this clause it shall be deemed to be sufficient control if the dog is under the continuous surveillance or control of some responsible person, that is, able to be recalled instantly whenever another person, dog, or any other animal, is encountered. The dog must not give rise to any reasonable complaint as to its behaviour while being exercised.

In dog exercise areas dogs can be exercised at any time but must still be under the control or surveillance of some responsible person.

(2) The provisions of 5.3(1) shall not apply to a working dog carrying out the work in respect of which the dog has been registered.

(3) Notwithstanding any other provision of this Bylaw, the entry of dogs on to any public place specified in Section 5.5 is prohibited.

5.4 Dog Exercise Areas

Dogs within Exercise Areas may be exercised at large at all times while under continuous surveillance and effective control, or on a leash according to the appropriate signage for that area within the exercise area, except dogs are not permitted to enter children's playgrounds and marked sports grounds where these are adjacent to Exercise Areas.

The designated Dog Exercise Areas are contained in Section (A) of the attached Schedule.

See also Section (B) and (C) of the Schedule for details on tracks and reserves where dogs under control are allowed.

Owners must pick up and wrap all dog faeces deposited by their dogs on Exercise Areas and dispose of in an appropriate manner.

5.5 Public Places in which Dogs are Prohibited

Dogs are prohibited in those places listed in Section (D) of the attached Schedule at all times unless otherwise specified.

The Council may from time to time make areas temporarily prohibited to dogs because of any potential conflict with people, domestic animals, or at the advice of the Department of Conservation, regarding wildlife. Temporary prohibitions will be notified by signage placed at the points of entry to the areas and where practicable, public notice in the newspaper.

5.6 Fouling in Public Places

No person being the owner or a person having charge of any dog shall permit the dog to defecate in a public place or on land or premises other than that occupied by the owner.

(1) Provided that, no offence shall be deemed to have been committed against this bylaw where the owner or the person having charge of the dog removes the faeces immediately after the dog has deposited them.

(2) Any person having charge of any dog shall at all times while exercising the dog whether within a designated exercise area or any public place carry a suitable receptacle to remove and dispose of dog faeces immediately after the dog has deposited them.

(3) Plastic bags, paper bags or acceptable pooper scoopers are examples of suitable receptacles.

(4) 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 the receptacle.

5.7 Infectious or Infested Dogs

No person being the owner or having control or charge of any infectious or infested dog shall take the same into any public place or permit or suffer such dog to enter or remain in a public place except when being taken to a veterinary clinic.

5.8 Bitches in Season

No person being the owner or having control or charge of any bitch in season shall take the same into any public place or permit or suffer such dog to enter or remain in a public place except when being taken to a veterinary clinic. Such bitches shall be kept confined but adequately exercised.

5.9 Nuisances

(1) The owner of any dog and the owner or the occupier of any premises on which any dog or dogs are kept shall:

(a) Take adequate precautions to prevent the dog or dogs or the keeping thereof from becoming a nuisance or annoyance.

(2) If, in the opinion of the Council, any dog or dogs or the keeping thereof on any premises has become or is likely to become a nuisance, the Council may, by notice in writing, require the owner or occupier of the premises within a time specified in such notice, to do all or any of the following:

(a) Reduce the number of dogs kept on the premises

(b) Order the permanent removal of a single dog on a property.

(c) Construct, alter, reconstruct or otherwise improve the kennels, places of confinement or other buildings used to house or contain such dog or dogs (Animal Control Officers will have the discretion to determine what is acceptable or reasonable).

(d) Require such dog or dogs to be tied up or otherwise confined during specific periods.

(e) Take such other action as the Council deems necessary to minimise or remove the likelihood of nuisance.

(3) The owner of every dog shall ensure that their dog/s do not create a nuisance or annoyance:

(a) By obstructing the lawful passage of persons in public places;

(b) By rushing and frightening persons in a public place or lawfully on private property;

(c) Shall not permit it to be kept in circumstances that may be offensive or likely to be injurious to health;

(d) Shall not permit or allow it at any time to destroy, tear or otherwise interfere with any refuse container whether the container is on private property or in a public place.

5.10 Consent to Keep More Than Two Urban Dogs

(1) No more than two urban dogs of registerable age (whether or not such dogs are registered) may be kept on any urban premises unless:

(a) The owner or occupier is the holder of a consent to keep three or more dogs; or,

(b) The premises are zoned rural in the relevant, operating Waimate District Plan.

(c) Notwithstanding the exception in (b), if a justifiable complaint is received about any dog on the premises the Council may, in its discretion, require the owner to apply for and obtain a consent for all dogs on the premises.

(2) No consent shall be granted to the owner or occupier of any premises if such premises by reason of inadequate fencing, size, location or detrimental effect on any other premises would be inappropriate for the housing of three or more dogs.

(3) If the property in which the dog owner resides is leased/rented, the written consent of the property owner is required to keep three or more dogs on that property before any consideration for a consent will be given. A copy of such consent must be forwarded to Council.

(4) A consent issued under this Clause is subject to the conditions set by the Council. Any breach of such conditions or other terms or restrictions shall be a breach of this Bylaw. Any consent may be revoked by the Council for breach of conditions or, in the event of change of circumstances relating to the premises, the owner or occupier thereof or the animals kept or remaining on such premises.

(5) Applications for consents to keep more than two dogs shall be made on the form supplied by the Council and shall provide such information in respect of the application as the Council may reasonably require.

(6) There shall be paid to the Council for every such consent an inspection fee which the Council may from time to time by resolution publicly notified prescribe, and on each 1st day of July following the date of issue, an annual fee may be charged for the following twelve months.

(7) The fee for such consents shall be payable in addition to the registration fees payable under the Dog Control Act 1996.

5.11 Impounding of Dogs

When any contravention of Section 52 (1)(2) of the Act occurs, the dog may be impounded in a dog pound in accordance with Section 52(3) of the Act. Animal Control Officers may elect in some circumstances to require the owner of a continually offending dog to have the dog neutered or spayed.

5.12 Dog Control Fees

The Council will regularly review its dog control fees. Fees will be set by resolution, publicly notified and advertised.

5.13 Amendment of Schedules

That any items contained in the attached schedules to this Bylaw be altered at any time by resolution of Council and publicly notified.

SCHEDULE

NOTE: All are Waimate District Council reserves or tracks unless otherwise stated.

(A) DESIGNATED DOG EXERCISE AREAS

Victoria Park as marked on attached map
William Boland Park
Stadium Grounds
Knottingley Park
Gretna Green
St Andrews Recreation Reserve excluding camping and play areas

(NOTE: Dogs are not permitted in children's playgrounds or on marked sports grounds adjacent to any of these Exercise Areas).

(B) TRACKS AND RESERVES WHERE DOGS ARE ALLOWED

Controlled dogs are permitted without a leash unless otherwise specified.

Waimate District

Areas of the Waitaki Lakes administered by the Waimate District Council
Dog working stock only

NOTE: All dogs without a leash must at all times be under the full control of the person/s in charge of the dog/s.

(C) AREAS WHERE A HUNTING PERMIT IS REQUIRED

Permits are necessary to take your dog into the following areas for hunting purposes.

(D) AREAS WHERE DOGS ARE PROHIBITED

Areas developed and equipped as children's playgrounds.

The designated playing area of all marked sports grounds.

All cemeteries.

Areas that from time to time the Council will notify by way of signage and advertising that there is a temporary dog prohibition in place because of wildlife, stock or other issue, eg. large public gatherings.

All designated and marked sports fields, children's playgrounds and public swimming pools
All cemeteries
Business Area of
Queen Street from the Leonard and Rugby Street intersections to Goldsmith Street intersections
Victoria Park apart from the area marked on the map attached, Town Belt and Seddon Square.
Conservation/Wildlife Areas
Mount Nimrod Scenic Reserve (DOC)
Otaio Scenic Reserve (DOC)
Otaio Beach Walkway (DOC)
Mataia Scenic Reserve (DOC)
Hunter Hills Conservation Area (DOC)
Studholme Management Area (DOC)
Hook Bush Conservation Area (DOC)
Gunns Bush Conservation Area (DOC)
Kelcey's Bush Conservation Area (DOC)

Wainono Lagoon Foreshore (DOC)
Wainono Lagoon (DOC)
Waihao Box Wild Life Management Reserve (DOC)

Except

This prohibition does not apply to guide-dogs for the blind, police dogs and dogs being used by security guards, working dogs, dogs confined in an efficient container, or securely confined in or by lead or restraint on a vehicle. No offence shall be committed when a dog securely controlled by means of a lead, leash or chain is being taken through the defined area to the nearest area where the dog may be exercised by a resident of the defined area.

Recreation

Conservation/Wildlife Areas

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WAIMATE DISTRICT COUNCIL DOG CONTROL POLICY 2005

1.0 INTRODUCTION

The Dog Control Act 1996 requires territorial authorities to develop dog control policies that:

- minimise danger, distress and nuisance caused by dogs to the community generally
- 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
- enables, to the extent that is practicable, people to use streets and public amenities without fear of attack or intimidation by dogs
- provide adequate opportunities to fulfil the exercise and recreational needs of dogs and their owners.

The Waimate District Council will create a bylaw pursuant to the Dog Control Act 1996 and Local Government Act 2002 that will give effect to this Dog Control Policy.

2.0 DEFINITIONS

To assist with the understanding of this Policy the following definitions have been included. Most definitions are taken from the Dog Control Act 1996. All references made below to the 'Act' are in relation to 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.

Dog Control Fee – means any fee prescribed under section 37 of the Act.

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. Animal Control Officer has the same meaning.

Dog Ranger – means a Dog Ranger appointed under section 12 of the Act and includes an honorary Dog Ranger. Animal Control Officer has the same meaning.

Domestic Animal – includes:

- any animal (including a bird or reptile) kept as a domestic pet
- any dog

- 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 any dog certified by the Hearing Association (Incorporated) 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.

Lead – Means a lead of durable material or chain which is effectively restraining the dog/s.

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

- owns the dog; or,
- 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,
- the parent or guardian of a person under the age of 16 years who:
 - is the owner of the dog pursuant to this definition, and,
 - is a member of the parent or guardian's household living with and dependant on the parent or guardian,

but does not include any person who has seized or taken custody of the dog under this Act, the Animals Protection Act 1960, National Parks Act 1980 or the Conservation Act 1987 or any order made under the Dog Control Act 1996.

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

Protected Wildlife – means:

- any animal for the time being absolutely protected pursuant to section 3 of the Wildlife Act 1953
- 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
- any animal that is a marine mammal within the meaning of the Marine Mammals Protection Act 1978.

Public Place – 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 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’ by section 2 of the Local Government Act 1974. Currently this is defined as the 1st day of July in any one year to the 30th day of June the following year.

Roaming Dog – means any dog that is found unaccompanied by their owner in any public place or on any land or premises other than that occupied by the owner.

Rural Property – Those areas as defined in the District Plan as zoned Rural.

Stock – means:

- any live horse, cattle, sheep, swine, alpaca, llama, bison, donkey, hinny, or mule that is not in a wild state
- any deer, goat, thar, or other animal that is kept within a fence or enclosure for domestic or farming purposes.

Working Dog – means:

- any guide dog, hearing ear dog, or companion dog
- any dog:
 - kept by the Police or any constable, the Customs Department, the Ministry of Agriculture and Forestry, 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,
 - kept solely or principally for the purposes of herding or driving stock; or
 - 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
 - kept solely or principally for the purposes of destroying pests or pest agents under any pest management strategy under the Biosecurity Act 1993; or
 - 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
 - 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
 - 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
 - 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

- 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

3.0 OBJECTIVES

The objectives listed in this section have been developed to ensure that the Council consistently and effectively fulfils its responsibilities under the Dog Control Act 1996. These objectives have been based on the provisions of the Act.

It is important that the rights of the public are protected and the objectives listed below have been prioritised to reflect this.

Objective 1

To ensure that the owners of dogs comply with their obligations under the Dog Control Act 1996.

Note: The obligations of dog owners are to:

- *ensure that the dog is kept under control at all times*
- *ensure that the dog is registered in accordance with the Act*
- *ensure that the dog receives proper care and attention and is supplied with proper and sufficient food, water and shelter*
- *ensure the dog receives adequate exercise*
- *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*
- *take all reasonable steps to ensure that the dog does not injure, endanger, intimidate, or otherwise cause distress to any person*
- *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*
- *take all reasonable steps to ensure that the dog does not damage or endanger any property belonging to any other person*
- *comply with all regulations and bylaws made under the Act.*

Objective 2

To prevent the danger caused by dogs to the public, wildlife, and natural habitats.

Objective 3

To minimise the distress and nuisance caused by dogs to the public, wildlife, and natural habitats.

Objective 4

To actively promote the responsible ownership of dogs.

Objective 5

To provide for the reasonable exercise and recreational needs of dogs and their owners.

4.0 ISSUES

4.1 Community Health and Safety

The Waimate District Council has a responsibility to safeguard community health and safety. To do this it is necessary to control the activities of dogs which involves avoiding potential conflict, preventing danger and minimising distress caused by dogs to the community.

In the maintenance of community health and safety the Council will employ the following:

- **Access to Public Places** – Access to public places shall be restricted to dogs where the likelihood of significant conflict exists with the community.
- **Education and Obedience** – The provision of information shall ensure that the community, particularly high-risk groups, are informed about the risks associated with dogs, their identification, and avoidance. Owners shall also be informed of the safety and health issues related to dogs.
- **Enforcement** – When community health and safety is compromised, effective enforcement will control the problem including compliance with dog control regulations. This includes taking action where dogs have attacked or threatened people or animals by:
 - issuing a warning or infringement notice
 - prosecution when the offence or the effects of the offence are significant
 - impounding of roaming dogs
 - impounding of unregistered dogs.

4.2 Wildlife

Native, indigenous or protected wildlife can be sensitive to threats by predators, including dogs, which can damage both wildlife populations and

habitat. When it is identified that dogs will have a significant negative effect on wildlife or their habitats, access for dogs may be restricted.

In the protection of wildlife the Council will employ the following:

- **Access to Public Places** – Access by dogs to public places will be restricted where the likelihood of conflict exists with wildlife.
- **Education** – The provision of information to ensure that the community generally, and dog owners in particular, is informed about wildlife issues and the need to avoid disturbing them or allowing dogs to disturb them.
- **Enforcement** – When wildlife safety is compromised, effective enforcement will control the problem including compliance with dog control regulations. This includes taking action where dogs have attacked or threatened wildlife by:
 - issuing a warning or infringement notice
 - prosecution when the offence or the effects of the offence are significant
 - impounding of roaming dogs
 - impounding of unregistered dogs.

4.3 Nuisances

The activities of dogs can cause annoyance and discomfort to members of the community. Nuisances cover a wide range of issues and include:

- barking
- dog faeces
- roaming dogs
- the general presence and activities of dogs.

It is important that when dogs cause a nuisance those problems are identified and appropriate measures are taken to minimise or mitigate their adverse effects.

In the management of dog nuisances the Council will employ the following:

- **Education and Obedience** – Educating owners about the major nuisances associated with the ownership of dogs and how to avoid them.
- **Enforcement** – When a nuisance exists, provide effective control to reduce the problem and sufficient deterrent against non-compliance. This includes:
 - issuing a warning or infringement notice
 - prosecution where the offence or the effects of the offence are significant
 - impounding of roaming dogs
 - impounding of unregistered dogs.

4.4 Dangerous Dogs

Problems exist with a small section of the dog population that pose a significant threat to the community through aggressive behaviour. These are the dogs that attack or threaten people, domestic animals (including poultry) or wildlife causing injury, damage, or distress. It is important that where dogs are identified as dangerous, through their behaviour, that the appropriate actions are taken to control them.

In the management of dangerous dogs the Council will employ the following:

- **Enforcement** – Where dogs have, through their actions, shown themselves to be dangerous appropriate actions will be taken. These include:
 - issuing a warning or infringement notice
 - prosecution where the offence or the effects of the offence are significant
 - classifying owners as probationary or disqualified
 - classifying dogs as menacing or dangerous.

4.5 Dog Welfare

It is important to recognise that dogs have certain physiological and psychological requirements. Owners of dogs need to be aware that they have a responsibility to provide for their dog's welfare.

In the management of dog welfare the Council will employ the following:

- **Access to Public Places** – The classification of public places should provide sufficient opportunities for owners to provide for the exercise and welfare needs of their dogs.
- **Education and Obedience** – Information will be provided to owners about the welfare requirements of dogs.
- **Enforcement** – When welfare is not sufficiently provided for the Council will ensure that appropriate action is taken and that sufficient deterrence against non-compliance with dog control laws as they relate to dog welfare, are in place. This includes:
 - issuing a warning
 - prosecution where the offence or the effects of the offence are significant.

4.6 Registration

The maintenance of a registration system is both a statutory requirement and an essential component of the efficient running of dog control.

In the maintenance of a dog register the Council shall employ the following:

- **Education and Obedience** – Information will be provided to owners and potential owners, about their obligation to register their dog.

- **Enforcement** – Registration shall be monitored and action taken against owners that fail to register their dog. This includes:
 - issuing a warning or infringement notice
 - impounding of unregistered dogs
 - the requirement that all dogs be registered before they are released from the pound.
- **Fees** – Provide incentives for registration by setting reasonable fees for the registration of dogs, and recognising and providing for responsible ownership. Penalties for late registration will be set.
- **Microchip Transponder for Certain Dogs** – All dogs listed in Schedule 4 of the Act, or classified as menacing or dangerous on or after the 1st day of December 2003, must have a microchip transponder of the prescribed type implanted by the 1st day of July 2006. All dogs registered for the first time on or after the 1st day of July 2006 must have a microchip transponder of the prescribed type implanted. The Council will support and participate in the development and maintenance of the National Dog Control Database that will come in to effect on the 1st day of July 2006.

Dog breeds listed in Schedule 4 include:

- Fila Brazilian
- Dogo Argentina
- Japanese Tosa

Dog types listed in Schedule 4 include:

- American Pit Bull Terrier

4.7 Dog Owner Recreation

Dog owners wish to enjoy a range of recreational activities with their dogs. Although the health and safety of the community takes priority it is still important to provide recreational opportunities for owners and their dogs.

In the management of dog owner recreation the Council will employ the following:

- **Access to Public Places** – The classification of public places to provide sufficient opportunities for owners to enjoy a range of recreational activities with their dogs.

4.8 Costs

The provision of a dog control service includes the maintenance of dog registration databases, the monitoring of regulations and bylaws, response to complaints, enforcement actions, and education programmes. It is important that the costs involved with dog control are identified and recovered through appropriate means. The Council will, where possible, recover most of the cost associated with dog control from those who benefit from the service.

There are constraints on the Council recovering costs and the user of a service cannot always be directly identified. The monitoring of regulations and bylaws or the impounding of a dog whose owner cannot be identified are two examples where the immediate user of the service cannot be identified. Enforcement actions (the Council prosecuting an owner in Court) are an expensive process and the ability to recover these costs is constrained by law.

The public does benefit from dog control (e.g., the reduction in nuisance factors, safety issues addressed, and no roaming dogs) and therefore they should contribute to the cost. However, dog owners should incur most of the Council's costs associated with the ownership of their dogs.

The Council will recover 90% of the total cost associated with dog control through:

- registration and control fees
- enforcement.
- **Fees** – Council will set reasonable fees to recover the costs of dog control from:
 - registration and control fees
 - enforcement

5.0 POLICIES

5.1 Access to Public Places

This will allow dogs and owners access to public places while ensuring public safety and comfort. Where it has been determined that there is a potential for conflict with the general public, restricted access will apply to identified areas.

Dogs are allowed anywhere in the District on a leash except for those particular areas identified as “Prohibited Public Places”.

Three defined areas identify access restrictions to public places. The Act classifies public places as:

- **controlled** – dogs are allowed if controlled on a leash
- **exercise** – dogs are allowed and are not required to be on a leash
- **prohibited** – dogs are not allowed under any circumstances.

Dogs must be kept under control at all times.

Exemptions for certain dogs

The following classes of dogs will be exempt from all the restrictions over public places specified in this section.

- Hearing Ear dogs
- Guide dogs
- Companion dogs
- Working dogs (when working stock)

Other Legislation

Dog access is also controlled by other legislation. The Dog Control Policy is required to define specific areas of land designated under other legislation. These include:

- a controlled area – Conservation Act 1987
- an open dog area – Conservation Act 1987
- a national park – National Parks Act 1980

Policy

That dogs and their owners shall be provided with a reasonable level of access to public places, however this must be balanced with the need to prevent danger and to minimise distress and nuisance to the public at large.

Policy

That where the likelihood of conflict exists between dogs and the public at large, access by dogs to the public places shall be restricted.

Policy

That where the likelihood of conflict exists between dogs and wildlife, access for dogs to those places shall be restricted.

Policy

That the Council will, from time to time, make areas temporarily prohibited to dogs when there is the potential for conflict with people, domestic animals, or at the advice of the Department of Conservation, wildlife. Temporary prohibitions will be notified by signage placed at the main points of entry to the areas and where practicable, public notice in the newspaper.

5.1.1 Controlled Public Places

All public places in the Waimate District area are classified as controlled public places where dogs may go when controlled on a leash, except for public places classified as:

- **Prohibited** under Section 5.1.2 of this Policy. In these areas dogs are not allowed unless they are dogs as outlined in 5.1.
- **Exercise Area** under Section 5.1.3 of this Policy. In these areas dogs are allowed and are not required to be on a leash.

5.1.2 Prohibited Public Places

These are areas where it is considered that a significant risk of conflict between dogs and the public at large exists. In order to prevent danger and to minimise the nuisance caused by dogs, they are prohibited from these areas.

The following areas will be classified as **Prohibited Areas** pursuant to a bylaw made under section 20(1)(a) of the Act.

Table 1 – Prohibited Public Places

All designated and marked sports fields, children’s playgrounds and public swimming pools
All cemeteries
Business Area of
Queen Street from the Leonard and Rugby Street intersections to Goldsmith Street intersections
Victoria Park apart from the area marked on the map attached, Town Belt and Seddon Square.
Conservation/Wildlife Areas
Mount Nimrod Scenic Reserve (DOC)
Otaio Scenic Reserve (DOC)
Otaio Beach Walkway (DOC)
Mataia Scenic Reserve (DOC)
Hunter Hills Conservation Area (DOC)
Studholme Management Area (DOC)
Hook Bush Conservation Area (DOC)
Gunns Bush Conservation Area (DOC)
Kelcey’s Bush Conservation Area (DOC)
Wainono Lagoon Foreshore (DOC)
Wainono Lagoon (DOC)
Waihao Box Wild Life Management Reserve (DOC)

From time to time The Council will notify, by way of signage and advertising, any temporary dog prohibition because of wildlife issue or public events.

Right of Access

In an area of ‘Children’s Play Equipment’ owners shall be allowed to move through the area for the purpose of moving from one side of the prohibited area to the other. Any owner and their dog are required to move directly through the prohibited area via the most direct path.

Any owner and their dog will not be allowed in any area of ‘Children’s Play Equipment’ for more time other than is reasonably necessary for passing through the area.

The dogs must be on a leash.

Table 2 – Tracks, Reserves and Roads where Dogs are allowed

Waimate District
Areas of the Waitaki Lakes administered by the Waimate District Council
Dog working stock only

Controlled dogs permitted without a leash unless otherwise specified but must be under the full control of the person in charge of the dog/s.

Table 3 – Areas where a Hunting Permit is required

<i>Permits are necessary to take your dog into the following areas for hunting purposes</i>

5.1.3 Exercise Areas

The following areas shall be classified as Exercise Areas where dogs can be exercised off their leash. Owners are required to maintain control over their dog at all times.

Table 4 – Exercise Areas

Victoria Park as marked
William Boland Park
Stadium Grounds
Knottingley Park
Gretna Green
St Andrews Recreation Reserve excluding camping and play areas

(NOTE: dogs are not permitted in children's playgrounds or on marked sports grounds adjacent to some of these Exercise Areas)

5.2 Education and Obedience

The Waimate District Council recognises that the provision of education will help to promote greater awareness both with owners and the general community about the issues associated with dog control.

Education and the provision of information about dogs and their requirements is seen as a method of being able to address dog control problems before they occur. With the new requirements of the Act it is important that owners are aware of what is required of them and how they should address dog control problems as they arise.

All members of the community come into contact with dogs on a regular basis. For this reason it is important to educate the wider public about dog control issues.

Education should focus on those groups in the community that come into regular contact with dogs or are at a higher risk from dogs. These include:

- prospective owners
- children
- the providers of education and obedience programmes.

Providing obedience courses is a method of controlling dog control problems and issues in a more targeted manner. The use of these courses is seen as a method of reducing dog control problems in specific cases. In the

development and use of education and promotional activities as tools for dog control the Council will maintain the following policies.

Policy

The Council will engage in education with the following aims:

- to promote maximum public safety
- to promote responsible dog ownership
- to promote the provisions of the Dog Control Act 1996 and the Waimate District Dog Control Policy

Policy

The Council will engage in the education of owners on the following matters:

- the requirements and welfare of dogs
- major dog control problems and their avoidance
- the obligations imposed on dog owners under the Dog Control Act 1996 and the Waimate District Dog Control Policy

Policy

The Council will engage in the education of the general public, especially children and other high-risk groups, on the following matters:

- the needs and welfare of dogs
- major dog control problems and their avoidance
- the rights of the general public
- dog safety and the handling of dogs

5.3 Enforcement

The Act provides several powers to Territorial Authorities to control dogs and enforce the requirements of the Act. The use of enforcement mechanisms is provided to allow Territorial Authorities to effectively carry out their obligations to protect the community and to offer a sufficient deterrent against non-compliance with the legislation.

This section outlines the different enforcement mechanisms that are available to the Waimate District Council. Many of the mechanisms are not open to interpretation by the Council.

5.3.1 Prosecution

The Act sets out the obligations of dog owners. Where a person has failed to comply with a particular obligation under the Act they can be prosecuted in a Court of Law and the offences carry heavy fines, a conviction and in extreme circumstances, imprisonment.

Prosecution can be a costly process, both in terms of time and resources, and, where appropriate, alternative methods of enforcement can be used. However, where an offence is considered to be serious and sufficient evidence exists, the Council will consider prosecuting an offender in situations where a dog has:

- caused significant damage to property
- caused significant damage or injury to any person, domestic animal (including poultry) or wildlife
- caused severe distress
- caused danger, distress or nuisance to any person or the community on a number of occasions.

5.3.2 Infringement Notices

The Act empowers Dog Control Officers to issue Infringement Notices which impose an ‘instant’ fine for dog owners. Infringement Notices can only be issued for particular offences.

Table 5 – Offences Pursuant to the Dog Control Act 1996

Section	Offence	Infringement
18	Wilful obstruction of a Dog Control Officer	\$ 750.00
19(2)	Failure/refusal to supply information/wilfully stating false particulars	\$ 750.00
32(4)	Fraudulent sale/transfer of a dangerous dog	\$ 500.00
41	False statement relating to registration	\$ 750.00
46(4)	Fraudulent attempt to procure a replacement registration label/disk	\$ 500.00
51(1)	Removal/swapping of labels/disks	\$ 500.00
62(4)	Allowing a dog known to be dangerous to be at large unmuzzled	\$ 500.00
28(5)	Failure to comply with disqualification	\$ 750.00
36(A)	Failure to implant a microchip	\$ 300.00
20(5)	Failure to comply with the Dog Control Bylaw	\$ 300.00
52(A)	Failure to keep a dog controlled/confined	\$ 200.00
53(1)	Failure to keep a dog under control	\$ 200.00
42	Keeping an unregistered dog	\$ 300.00
48(3)	Failure to advise a change of ownership of dog	\$ 100.00
49(4)	Failure to advise a change of address of dog	\$ 100.00
54(A)	Failure to carry a leash in public place	\$ 100.00
		Maximum Penalty on Conviction
		3 months imprisonment or \$5,000.00
54(2)	Failure in obligations as a dog owner	\$5,000.00
55(7)	Barking dog	\$1,500.00
57(5)	Dog rushing at any person, animal or vehicle	\$3,000.00
58	Dog causing serious injury	3 years imprisonment and/or \$20,000.00

5.3.3 Classifications

Under the Act the Waimate District Council has the ability to classify owners as ‘probationary’ or to disqualify owners from owning a dog. These classifications only apply in certain situations and carry restrictions on that person owning a dog.

Probationary Owners

The Act allows the Council to classify any person that has been convicted of an offence under the Dog Control Act 1996, or has received three infringement notices in 24 months as a ‘probationary’ owner. While the Council has discretion to use this power it is considered that where the two matters listed above have occurred then classification as ‘probationary’ is justified.

The probationary classification has the following effect:

- the owner is not allowed to own any additional dog(s) than was owned at the time the classification was made
- the owner must dispose of any unregistered dogs
- a 50% surcharge on the owners registration fees is charged.

A probationary owner has the right to object to the classification and the Act outlines a number of circumstances whereby the two-year probationary period can be reduced. In considering an objection the Council will have regard to;

- the circumstances and nature of the offence(s)
- the competency of the person in terms of responsible dog ownership
- any steps taken by the person to prevent further offences
- the matters advanced in support of the objection
- any other relevant matters.

In addition to the matters listed the Council will encourage owners to undertake approved education and obedience courses as a means of reducing their probationary period.

Disqualification of Ownership

If an owner is classified as probationary and they commit a further offence the owner can be disqualified from owning a dog. The disqualified owner must dispose of all dogs they own and cannot own any more dogs for up to five years. A disqualified owner has the right to object to the classification.

As with classifying an owner as probationary, the Council has discretion to use this power. It is considered that where the two matters listed above have occurred, disqualifying a probationary owner from owning a dog is justified.

5.3.4 Barking Dogs

The provisions for dealing with barking dogs are covered by sections 55 and 56 of the Act. Where a dog is considered to be causing a nuisance through persistent and loud barking or howling, a dog control officer may issue the owner of the dog with a notice requiring the owner to take such reasonable steps so as to abate the nuisance.

The owner of the dog has seven days to either comply with the notice or object to the Council about the content of the notice. If after seven days the notice has not been complied with and further complaints have been received, a Dog Control Officer may remove the dog from the land or premises.

If an objection has been received the objector shall have the right to be heard by the Council who shall consider the notice and any evidence submitted with the objection and shall confirm, cancel, or modify the notice.

5.3.5 Classification as a Dangerous Dog

Under the Act provision is made for classifying individual dogs as dangerous. The classification is made where:

- an owner of the dog has been convicted of an attack offence under section 57(6) of the Act
- the Council has sworn evidence that the dog has shown aggressive behaviour
- the owner admits that the dog constitutes a threat to the safety of any person, animal or stock.

This procedure is prescribed by law and is not open to interpretation by the Council.

In addition to all other obligations the owner of any dog that is classified as dangerous must:

- ensure the provision of a secure area where it is possible to gain unrestricted access to any door of the residence
- ensure the dog is muzzled in any public place or when not confined in a vehicle or cage
- ensure the dog is neutered
- not dispose of the dog to any other person without the written consent of the Council.
- pay 150% of the registration fee.

Classifying dogs as dangerous is an effective method of controlling individual dogs that have demonstrated aggressive or dangerous behaviour.

5.3.6 Impounding

The Act sets out certain provisions for the impounding of dogs. Where any dog is found at large in a public place in contravention of a bylaw or on any property other than the owners it may be impounded. Where any dog is impounded and the owner is known, the Council shall make all reasonable attempts to contact the owner. The owner then has seven days to recover the dog from the pound.

Where the owner of the dog is unknown the Council must keep the dog for seven (7) days. If the dog is not claimed after this time the dog may be disposed of or destroyed as the Council sees fit.

Where a dog is recovered from the pound, it shall not be released until all registration and pound fees are paid.

5.3.7 Abatement of Nuisance

Where a complaint has been received and a Dog Control Officer considers that a nuisance exists, the officer may issue the owner with a notice requiring that they take such steps as are specified in the notice to abate the nuisance.

5.4 Fees

Section 37 of the Act states:

“The dog control fees payable to a territorial authority shall be those reasonable fees prescribed by resolution of that authority for the registration and control of dogs under this Act.”

The Council may also set lower fees for certain types of dogs or owners, or penalty fees for late payment. It can set fees for the impounding of dogs - this includes fees for the seizure, sustenance, and the destruction of a dog. Fees can be varied for registered and unregistered dogs and may be graduated for the repeated impounding of the same dog.

The setting and review of fees will vary over time and will be set and advertised before the beginning of each registration year (the 1st day of July to the 30th day of June the following year).

Table 5 – Categories for fees which may be charged under the Dog Control Act 1996

Registration

- All Dogs
- Urban Dogs
- Rural Dogs
- approved guide dogs, hearing dogs, and companion dogs

Impounding

- first impounding
- second impounding
- third and subsequent impounding
- daily sustenance fee

Miscellaneous

- consent to have more than two dogs on a property (other than rural properties)
- collection or delivery of dog on behalf of owner
- euthanasia of dog at owners written request

5.5 Bylaws

The Council has the ability pursuant to the Dog Control Act 1996 and Local Government Act 2002 to create bylaws to give effect to the Dog Control Policy. The Act lists the particular matters for which bylaws can be made and the Council has identified the specific matters that will be covered in the Waimate District Council Bylaw.

5.5.1 Notice to Abate Dog Nuisance

Where a Dog Control Officer considers that any dog, or the keeping of any dog, has become a nuisance or injurious or hazardous to the health, property or safety of any member of the public, an officer may in writing require the owner to do any or all of the following:

- permanently remove a single dog from a property
- reduce the number of dogs kept on a premises
- construct, alter, reconstruct or improve the kennels or other buildings used to house or contain the dog or dogs
- take such action as an officer deems necessary to minimise or remove the likelihood of nuisance, injury or hazard to health, property or the safety of any member of the public.

5.5.2 Restriction on Diseased Dogs or Dogs in Heat

Where any dog is infected with mange, distemper, or other infectious disease, or any bitch is in heat, the owner of the dog shall not allow that dog in any public place.

5.5.3 Fouling of Public Places

Where any dog defecates in a public place or on land or premises other than that occupied by the owner, the owner of the dog shall forthwith remove and dispose of the faecal matter. Regardless, the owner shall carry a suitable receptacle at all times (e.g., plastic or paper bags or a 'pooper scooper') when their dog(s) is/are in a public place.

5.5.4 Dogs in Public Places

The bylaw shall identify the public places where dogs shall be:

- controlled (allowed on a leash)
- allowed to be exercised (allowed off a leash)
- prohibited (not allowed).

These areas shall be identified from time to time by resolution of the Council and must be consistent with the areas identified in the Dog Control Policy. These areas must be identified in the bylaw to allow Dog Control Officers to enforce the public place restrictions made under the Policy.

This bylaw shall also specify particular dispensations for particular dogs where the general provisions of the bylaw may not apply or may be altered.

5.5.5 Impounding

The bylaw will allow Dog Control Officers and rangers to impound roaming dogs and dogs found without their owners.

5.5.6 Consent Required for More Than Two Dogs

The bylaw shall require any owner who keeps more than two dogs, in areas zoned Residential or Business, to obtain a consent to do so. In considering an application the Council shall have regard to the danger, distress and nuisance that would be caused to the community generally if the consent was issued.

The Council shall have the right to impose terms and conditions on the issuing of the consent including:

- specifying the number of dogs that may be kept at any one time
- specifying the duration of the consent
- specifying the particular dogs to which the consent shall relate
- restrictions as to the purpose for which such dogs may be kept
- provision of hygiene.

The Council may fix an annual fee for a permit issued for more than two dogs.

Confirmed at the _____ Meeting of Council held on _____

His Worship the Mayor

Chief Executive Officer

Date