



Nelson City Council

DOG CONTROL POLICY (ADOPTED 16 DECEMBER 2004)

1 – INTRODUCTION

The Dog Control Act 1996, recently amended by the Dog Control Amendment Act 2003, places an obligation on the Council to adopt a policy in respect of dogs within the City, and to adopt the appropriate bylaws to give effect to this policy.

The purpose of the legislation is to make better provision for the care and control of dogs and section 10 of the 2003 Amendment Act requires that the Council in adopting its policy is to have regard to:

Section 10 (4) Dog Control Act 1996 which provides:

- a) The need to minimise danger, distress, and nuisance to the Community generally; and
- b) 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
- c) The importance of enabling, to the extent that is practicable, the public (including families) to use streets and public amenities without fear of attack or intimidation by dogs; and
- d) The exercise and recreational needs of dogs and their owners.

The Council acknowledges the regulatory environment to which the legislation gives rise and the fact that the obligations placed on dog owners might not reflect the perceptions of the Good Dog Owner. The Council therefore proposes a policy which is aimed at providing the greatest freedom of ownership and movement of dogs for responsible owners, having regard for the safety and convenience of residents and visitors, while at the same time providing the means whereby the Council can work towards the education of irresponsible owners and thereby reduce the number of problem dogs.

The Council also proposes that its enforcement regime will give recognition to good dog ownership practices which acknowledge that the health and welfare of the dog itself is important.

2 – DOGS IN PUBLIC PLACES

There are two issues which arise in relation to dogs accessing public places, one is the wider relationship between the dog and other users of the place including wildlife and the second is the effect which dog faeces might have on the health and convenience of other users.

Having regard to these two issues it is proposed that the following controls should be imposed on dogs in respect of the different types of public places. While it is accepted that a dog secured by a leash, in the hands of a good owner, can generally be regarded as unlikely to cause concern, accidents can happen and in relation to some areas the risk of a lapse or oversight is not acceptable. However there are other circumstances or other situations where control by leash is a reasonable alternative to prohibition.

The Council will therefore require owners to take responsible control of their dogs appropriate to the circumstances and will disqualify any person from being an owner of a dog where the appropriate level of responsibility cannot be shown.

2.1 Prohibited areas

Dogs will be prohibited from the following areas for the reasons as set out:

- a) Nelson Airport – The Nelson Regional Airport Bylaws, for reasons of safety, prohibit the bringing of any animals into the airport unless the animal is confined for carriage by air from the airport, or is used to assist a disabled person (i.e. a guide dog, hearing ear dog or companion dog).
- b) Childrens' Playgrounds – One of the main areas of concern in respect of childrens' interaction with dogs is that they are generally instantly attracted to animals. This coupled with the pack instincts of adult dogs can lead to instances of biting and other injurious behaviour. In addition, the bark surfaces of playgrounds means that faeces left by their dogs, can be overlooked.
- c) Tahunanui Main Beach – This is an important beach providing seaside recreation/swimming for a large number of residents and visitors to enjoy free from nuisance or inconvenience. In addition the setting aside of the western end of the beach and the back beach area for dogs provides adequate opportunity for swimming, beach exercise and socialising.
- d) Haulashore and Oyster Islands – These two islands provide important wildlife habitats which need to be protected from predatory animals.
- e) Water Works Reserves – The Council's "water supply" bylaws provide in order to preserve the integrity of the city water supply and the natural environment of the catchments that dogs are not permitted within the Maitai and Roding Water Works Reserves. For certain feral animal control purposes permits may be given for dogs to be used in these areas. The Brook Water Supply Reserve is presently being developed as a wildlife sanctuary and dogs are not compatible with these aims. This prohibition will not apply in relation to the westward facing slopes of the Marsden Valley portion of the Roding catchment. The council is soon to prepare management plans for these areas and the question of dogs will be addressed as part of that exercise.
- f) Council owned or operated Special Purpose facilities - This includes the swimming pools at Riverside and Nayland Park, the three city Libraries, Civic House, the Trafalgar Centre and Stoke Hall. It is not appropriate for dogs to

be brought into facilities where people are undertaking recreational pursuits or leisure time activities, or engaged in business. "Guide dogs, hearing ear dogs, or companion dogs, or dogs used by the Police or other agencies" will be exempt from this prohibition. The prohibition excludes approved dog shows at the Trafalgar Centre and Stoke Hall.

- g) Playing areas of Sports Fields used for Active Recreation, whether formally or informally.

Dogs are not compatible with active recreational pursuits and owners need to ensure that their dogs are kept off the area on which such activities take place.

- h) The Maitai River Swimming Holes from and including Dennes Hole to the Maitai Camp. Dogs should not be permitted to swim in popular swimming areas as there is ample room for dogs to swim below Dennes Hole, in the reaches of the river between swimming holes, or in the upper reaches.
- i) Any other public area from which the Council may from time to time ban dogs pursuant to a specific bylaw. The introduction of any such bylaw will specifically amend the schedules to the Dog Control Bylaw.
- j) Dogs are prohibited from being on any land not being foreshore or sea bed administered by the Department of Conservation unless the owner has specific authorisation, for example a dog control permit, or the area is otherwise specifically provided for in the Dog Control Policy.
- k) The beaches and estuary flat of Nelson Haven bounded by the Boulder Bank Scenic Reserve (to the west) and Boulder Bank Drive (to the east) for a distance of 500m along each of those boundaries; and the Boulder Bank Scenic Reserve, during the period October to February, from a point 4 km from the intersection of Boulder Bank Drive and the Boulder Bank Scenic Reserve, to the Cut.

This area provides important habitat, roosting and nesting sites for endangered wader birds and needs to be protected from dog disturbance and will be shown on an appropriate map.

2.2 Dogs Permitted on a Leash

Section 54A of the Dog Control Act 1996 provides:

- (1) The owner of a dog must carry a leash when in a public place if:
 - a) The dog is with the owner.
 - b) The dog is not otherwise required to be controlled on a leash by or under this Act or any other enactment.
- (2) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$500 who being the owner of a dog fails to comply with subsection (1)
- (3) This section does not apply to the owner of a working dog in relation to the working dog.

NOTE:

Owner is defined as every person who owns the dog, or has the dog in their possession and includes the guardian of a person under the age of 16 who is the owner of or has the dog in their possession and lives with and is dependent on the guardian.

The majority of people in Nelson do not own a dog, and their rights to use public places without being intimidated or inconvenienced by uncontrolled dogs takes priority. Therefore in all areas where members of the public are present in

reasonable numbers, or where the small or restricted size of the area makes contact inevitable, dogs will be required to be on a leash under the control of a responsible person.

These areas include the following:

- a) All parts of any sports field, other than the designated playing area.
- b) The Maitai Valley walkway between Saltwater Creek and Trafalgar Street.
- c) All footpaths and public places within the Central Business District of the city and all footpaths and public places within the suburban commercial areas of the city. The footpaths and open spaces within Commercial Areas should be areas where pedestrians can walk without any concern for dogs wandering loose. (Guide dogs, hearing ear dogs or companion dogs or dogs used by the Police or other agencies being used for their working purpose would be exempted).
- d) Anzac Park, Isel Park, Church Hill, Queens Gardens, Miyazu Gardens, Broadgreen Rose Garden and Melrose Gardens.
- e) Nelson Cemeteries. Cemeteries which are active are regarded as places of quiet contemplation and order in which animals not under control are out of place.
- f) Such other areas as are specified within the pertinent Schedule to the Bylaws. These will include the Grampians and Sir Stanley Whitehead Park when stock are grazing, and any small neighbourhood reserves where conflicts between dogs and children might arise.
- g) Wakapuaka Conservation Reserve. The draft "Head of the Haven at Wakapuaka Enhancement Concept" identified dogs as having an impact on the breeding habits of the birds at the Wakapuaka Conservation Reserve. This is a popular area for walking dogs so it is suggested that dogs still be permitted, but on a leash only.
- h) The sand and mudflats of Delaware Inlet.

The Delaware Inlet is identified in the Proposed Nelson Resource Management Plan as an important habitat for the threatened banded rail. The inlet also supports banded dotterel and variable oystercatcher and is identified in the planning maps as being a marine area of significant conservation value. Dogs running uncontrolled along the mudflats of Delaware Inlet can be a threat to birds which are protected under the Wildlife Act 1953.
- i) The sealed surfaced area of cycleway/walkways.
- j) The areas through which the cycleway/walkways from the Airport, and Kidson Place to Point Road and South of the Honest Lawyer pass.
- k) The Boulder Bank Scenic reserve from the intersection of Boulder Bank Drive and the Boulder Bank Scenic Reserve south for a distance of 4 km at all times, and from that point to the Cut for the period March to September.

2.3 Dog Exercise Areas

There are a number of areas within the city which, by virtue of the lesser number of people which are likely to be using them at any one time and because they do not provide habitat for protected wildlife, are appropriate areas for dogs to be exercised off the leash without causing nuisance or concern. These areas include the back beach at Tahunanui and the Railway Reserve as well as a number of the reserve and

open space areas which lie on the outskirts of the urban area. These areas will be specified within the appropriate schedule to the Bylaw.

NOTE:

The ability to exercise dogs at large in these areas does not absolve owners from their obligation under the Dog Control Act 1996 to ensure that their dog is kept under control, nor from their responsibility to carry a leash at all times while with the dog in a public place.

The Policy envisages that owners being required by law to carry a leash with them while out with their dog, will respect the rights of pedestrians and cyclists using footpaths and cycleways and when approaching these other users will retrieve their dog from its wandering and clip it back on the lead while passing.

Once other users have moved on the dog can be released to continue its free ranging.

3 – REGISTRATION FEES

The Council has adopted a fee structure which recognises the following types of dogs:

- a) Urban Dogs.
- b) Rural Dogs.

Note: Dogs and their owners are classified as Rural if they reside on a property which has an area in excess of 1 ha.

- c) Dogs on Good Dog Owner scheme (Refer Clause 7).
- d) Police, Guide, Hearing Ear Dogs.
- e) Dogs classified as Dangerous.

The Act requires that all money received from registration fees or other charges levied under the Act are to be applied only for Dog Control purposes. The Council acknowledges that good dog owners tend to subsidise the cost of activity related to irresponsible or bad owners and to this end will encourage owners to take responsibility for their dogs to ensure that fees can be kept as low as possible.

Dog owners who do not act responsibly or maintain adequate control over their dogs will be penalised to ensure that they meet the costs of the additional work. In addition the Council will endeavour to operate the Pound on cost recovery basis so as far as possible to operate a user pays system.

The Council will be looking at its funding policy at some time in the future as there is a good argument that enforcement action against bad owners is a public good and therefore a greater proportion of the cost of this should be borne by the general ratepayer.

As part of this review the Council will also give consideration to incentives or other provisions which it might be appropriate to incorporate into the Registration System to deter bad owners and/or encourage good ones, including discounts for de-sexing, “puppy” education programmes and other responsible owner initiatives.

4 – BARKING DOGS

Section 55 of the Dog Control Act 1996 authorises Council Dog Control Officers to issue an abatement notice to any person who owns a dog which the Officer considers is causing a nuisance by persistent and loud barking. Non compliance with this notice will result in prosecution.

Section 56 authorises the Officer to remove the dog from the property if the owner takes no action, and the nuisance is continuing and causing distress to any person.

The Council will continue to implement these provisions on complaint.

5 – MENACING AND DANGEROUS DOGS

The Act contains a number of provisions which enable the Council to require specific control action to be taken in respect of menacing and dangerous dogs.

A menacing dog is one which has not been classified as a dangerous dog, but which the Council considers may pose a threat to any person, stock, poultry or domestic animal or protected wildlife because of observed or reported behaviour or any characteristics typically associated with the breed or type.

The Council must classify a dog as a menacing dog if it believes that the dog belongs wholly or predominately to a breed or type prohibited under Section 30A of the Act.

Section 30A of the Dog Control Act 1996 provides:

that any dog that belongs wholly or predominately to one or more of the following breed/or type of dog is prohibited from importation into New Zealand

Breed:

- Brazilian Fila
- Dogo Argentino
- Japanese Tosa

Type:

- American Pit Bull Terrier

A dangerous dog is one which the Council has, on sworn evidence attesting to aggressive behaviour by the dog, reasonable grounds to believe it constitutes a threat to the safety of any person, stock, poultry or domestic animal or protected wildlife, and the owner has admitted in writing that the dog constitutes such a threat, and has already been convicted of an offence relating to the dog attacking a person or an animal.

Sections 31 to 33 outline the reasons why and the manner in which a dog may be classified as dangerous, and the obligations which this imposes on an owner which includes having the dog on a lead and muzzled when in public and compulsory neutering of the dog.

Sections 33A to 33F contain similar provisions relating to menacing dogs. These dogs are also required to be on a lead and muzzled when in public but neutering of these dogs is at the discretion of the Council. As a matter of policy that Council will require all dogs classified as menacing to be neutered.

The Council will require that any dog of the breed or type in respect of which section 30 A applies to be neutered before December 2005, and to require any other dog to be neutered when the classification is confirmed.

6 – ENFORCEMENT

The Act provides that the Council may issue Infringement Notices which provide an instant fine for a number of offences. As the Council's aim is to promote owner responsibility, Infringement Notices may be preceded by a written warning. In those instances where the actions of the owner amount to a wilful disregard for the safety or convenience of any person or animal, or a fraudulent or deliberate attempt to circumvent the requirements of the Act or the Bylaws, an infringement notice is likely to be issued without warning.

Where a written warning is ignored, or the offence is repeated within two years, or the behaviour is seen to be becoming habitual the appropriate Infringement Notice will be issued.

The Council will enforce the requirement for owners to remove their dog's faeces and the bylaws will require persons to have a bag with them when exercising any dog.

Where the offence relates to a failure to register a dog, the action which generally will be followed is for the Council to seize and impound the dog forthwith.

Section 42 of the Dog Control Act 1996:

Authorises a Dog Control Officer to enter any land or premises (except a dwelling house) occupied by the owner of the dog for the purpose of seizing an unregistered dog.

The Council will also make use of the provisions of the Act relating to Probationary Owners and Disqualification of Owners to, over time, improve the level of owner responsibility or to bar irresponsible persons from future ownership or control of any dog.

The Council will review the enforcement powers provided by the Act and establish a clear enforcement policy which will be communicated to all owners at the time of registration.

7 – OWNER EDUCATION

The Council presently runs two programmes aimed at encouraging responsible dog ownership, these are:

- a) The Doggy Do Project.
- b) The Good Dog Owner Policy.

7.1 The Doggy Do Project

The Council has installed dispensers for plastic rubbish bags as a convenience for persons exercising their dogs on a number of areas within the city. The presence of these is seen as one way in which the Council can encourage owners to pick up their dog's faeces. However the high incidence of vandalism and the increasing costs of re-stocking jeopardise the continuation of the project. The Council will consider continuing to provide bags to the existing dispensers and maybe expand the project to other areas provided it can obtain appropriate sponsorship. However, these dispensers are nearing the end of their useful life and replacements are expensive.

The Council also makes these bags available to dog owners at the reception in Civic House.

As the Council presently makes available approximately 250,000 bags via the existing system, it may reconsider the use of uncontrolled dispensers and investigate the direct provision of a number of bags to each dog owner on registration. Dog owners will also be encouraged to make use of bags which are readily available from other sources such as recycled bread bags, shopping bags and the like.

The council notes the high level of support which there is for this project and will review its operation at the time of setting the fees with a view to continuing to supply existing dispenser and investigating options to expand the scheme to other areas.

7.2 The Good Dog Owner Policy

This policy provides that owners are eligible for a reduced registration fee if they meet certain standards in relation to the control of their dogs. The policy requires:

- a) The property contain a fenced area of reasonable size to allow for exercise of the dog(s).

It should be noted that this is now a requirement on all owners under the Act.

- b) The owner demonstrate a good understanding of the legislation and of the Bylaws and of responsibilities and obligations relating to the welfare of the dog(s).
- c) There has been no substantiated complaint to the Council in relation to dog behaviour in the previous two years.
- d) Any substantiated complaint against a dog or owner in relation to a lack of control will result in the Good Dog Owner status being withdrawn for one year.

Note:

- (i) Initial acceptance onto the scheme would follow an inspection of the property and the completion of an interview. Owners who move to Nelson with their dogs may be accepted immediately on to the scheme subject to favourable comments being received in respect of their performance as a dog owner from the Dog Control Staff of the previous authority.
- (ii) Revocation of the status would not be automatic and would only be considered following written advice of the complaint and the giving of an opportunity for the dog owner to respond.

The Council in considering the revocation of the status will also have regard for the type of infraction complained of and the past record of the dog and its owner.

The Council will review this policy having regard to the comments made with a view to clarifying the objectives of the policy and the manner in which it will be administered.

As the Act now makes it compulsory for people to fence their property it is possible that as a result of the Council's review of fees, incentives and the like this programme will become redundant.

7.3 Publicity Material

The Council will provide information to owners and carry out periodical publicity of dog control matters via “Live Nelson” and other media.

The Council will produce pamphlets containing maps that clearly identify dog exercise (including the location of doggy do bag dispensers) and prohibited areas, and areas which are habitat for rare, threatened or endangered species such as the little blue penguin and banded rail.

The Council will also provide appropriate signage at all exercise areas and swimming holes which will include contact details for the Dog Control Officers.

The Council will investigate the type of signage used including the introduction of distinctive iconic signage.

7.4 Dog Control Officers

One important education tool is the advice and assistance which the dog control officers can provide to dog owners and to the general public. It is proposed that the officers in future will be more readily visible to the public through increased patrols aimed at assisting dog owners using the more popular public places to understand the obligations imposed on them by the Act and the Council bylaws.

8 – NUMBERS OF DOGS

8.1 As the number of owners within the city who have more than one dog is small and there is no clear evidence to suggest that more than one dog on a property causes problems, it is proposed that the number of dogs which can be kept on any residential property within the city will not be restricted. Notwithstanding this the Council will require that any person who wishes to keep more than one dog be on the Good Dog Owner scheme.

If this scheme is dropped the Council will review the manner in which owners wishing to retain more than one dog can demonstrate their suitability.

9 – CO-OPERATION WITH OTHER ORGANISATIONS

9.1 Ministry of Agriculture

The Ministry now has responsibility for the control and eradication of true hydatids and sheep measles under the provisions of the Bio Security Act 1993.

There is no requirement for people to dose their dogs for hydatids or sheep measles. However, Council publicity material will explain the benefits of general worming of dogs and it will be up to the dog owner to talk to their vet about the best worming regime for their dog.

9.2 SPCA

The Council will work in conjunction with the SPCA where possible to promote dog welfare.

The Council will review its assistance to the SPCA in respect of euthanasia of unwanted dogs or other services to ensure that this represents an appropriate benefit to the community.

9.3 Kennel Clubs and Dog Training Clubs

The Council will recognise and work with existing clubs in relation to education of dog owners, and will review the means by which it may be able to assist these organisations to achieve this end.

10 – BYLAWS

The Council is required to introduce Bylaws to give effect to its policy in respect of dog control and the introduction of the Bylaws will involve additional public consultation.

The Bylaws will be drafted to ensure as far as possible:

- a) That members of the public are able to make use of the public areas within the city without intimidation or inconvenience brought about through the actions of dogs or their owners.
- b) That dog owners are not penalised for owning a dog.
- c) That the welfare of dogs kept within the city is preserved and/or enhanced.
- d) That irresponsible or bad owners are penalised and required to carry their share of the cost of dog control.
- e) That bad owners are educated and bad dogs are, over time, removed from the City.
- f) That dogs do not pose threats to rare or protected wildlife.

10.1 Bylaw Provisions

It is proposed that the bylaws will make provision for the following matters:

- a) Prohibiting dogs from specified public places.
- b) Requiring dogs to be controlled on a leash in specified public places.
- c) Specifying areas where dogs may be exercised at large.

Note: The reasons for imposing these controls are explained within the policy, and the specified areas will be detailed in the schedules to the bylaw.

- d) Requiring confinement of dogs during the hours of darkness.

Reasons: Dogs allowed to wander at night have the opportunity to create considerable nuisance by getting into rubbish bins, and defecating on public and private property at will.

They also establish territorial “rights” over the area which they wander and this can cause problems for both the owner and members of the public when the dog revisits the area in the daylight.

- e) Requiring persons controlling a dog to remove its faeces from property other than that occupied by that person.

Reasons: Not only does the presence of dog faeces scattered over public areas present an unattractive picture to visitors to the city, it also illustrates a careless attitude to hygiene and a selfish disregard for other persons’ rights.

Dog faeces is objectionable litter, it is a nuisance for pedestrians and a possible health hazard for sportspeople. Not only will it be a requirement on owners to pick it up, but the Council will carry out extensive publicity regarding the problem and particularly enforce the obligation.

This may be an offence for which an instant fine, with no warning, may be imposed.

Section 65 of the Dog Control Act 1996 provides that the failure by the owner to remove the dog faeces is an infringement offence carrying a fine of \$300.00.

- f) The confinement of bitches in season.

Reason: In order to ensure that members of the public are not inconvenienced or made to feel threatened or intimidated it is appropriate that dogs in public areas are not necessarily excited or distracted.

- g) Impounding of dogs.

The Council will operate a pound for the temporary confinement of any dog which is seized by a dog control officer pursuant to the provisions of the Dog Control legislation. This includes:

- (i) Wandering dogs;
- (ii) Barking dogs causing distress;
- (iii) Dogs attacking persons or animals;
- (iv) Dogs rushing at persons, animals or vehicles;
- (v) Dogs in vicinity of protected wildlife;
- (vi) Unregistered dogs.

All impounded dogs will be retained in the pound for the required time in order to give the owners an opportunity to reclaim them. Unless reclaimed, and all fees and charges paid, the dogs so held will be disposed of.

- h) Neutering of dogs.

In addition to the neutering of menacing and dangerous dogs the Act enables the Council to include a provision in its bylaws requiring persistent wandering dogs to be neutered, notwithstanding that the owner may not have been convicted of a specific offence of failing to keep the dog under control. The Council may consider requiring the neutering of dogs as an alternative to a fine for wandering dogs in appropriate situations.