



# **Hastings District Council**

## **Bylaw**

### **Chapter 3: Dog Control**

*The chapters have been separated from the consolidated document for ease of use*

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## CHAPTER 1 INTERPRETATION AND GENERAL PROVISIONS

### 1.1 Purpose and authority

1.1.1 The purpose of this part of the Bylaw is to provide consistency in the interpretation of terms used throughout the Bylaw and to provide for general matters common to many parts of the Bylaw.

1.1.2 Unless otherwise stated every part of the Bylaw is made under s 145 of LGA 02.

### 1.2 Commencement and revocation

1.2.1 Unless otherwise stated every part of the Bylaw will commence on the day following the date upon which the Council publicly notifies its decision to adopt the Bylaw.

1.2.2 The revocation of a former bylaw will take effect the day following the date upon which the Council publicly notifies its decision to revoke the former bylaw.

### 1.3 Definitions

1.3.1 The definitions in this clause apply to all parts of the Bylaw. Any definition specific to only one part of the Bylaw may be set out at the beginning of that part of the Bylaw. In the event of any conflict between a definition in this clause and the definition in another part of the Bylaw, the latter will prevail.

1.3.2 In this Bylaw:

“advertising device” has the same meaning as in the district plan

“animal” has the same meaning as in the Animal Welfare Act 1999 and, for the avoidance of doubt, includes poultry and stock

“approval” means an approval in writing granted by the Council under clause 1.5 and, where the context requires, includes a resource consent granted by the Council under the RMA

“berm” means the grass verge of a road

“Bylaw” means the Hastings District Council Consolidated Bylaw, any part of that Bylaw and any other bylaw made by the Council from time to time under LGA 02 or any other enactment

“carriageway” means the part of a road intended for movement of vehicles, does not include the berm or footpath but does include a vehicle crossing

“constable” means a sworn officer of the New Zealand Police

“Council” means Hastings District Council and when the context requires extends to include:

- a committee of the Council with delegated responsibility for the administration of the Bylaw
- an enforcement officer
- a Council officer with delegated responsibility for the administration of the Bylaw
- a parking warden and

- any other person with responsibility for administration of the Bylaw engaged by the Council under s 179 LGA 02

“Council facility” means any premises owned, occupied, managed or otherwise controlled by the Council

“cycle” has the same meaning as in Rule 1.6 of the Land Transport (Road User) Rule 2004.

“cycle path” means the part of a road physically separated from the roadway that is intended for the use of cyclists, but may also be used by pedestrians, and includes a cycle track formed under s 332 of the Local Government Act 1974

“district” means the district of the Council as defined in Part 2 of Schedule 2 of LGA 02

“district plan” means the plan made under the RMA for the district and includes both the operative district plan and any proposed district plan

“enforcement officer” means any person appointed by the Council under s 177 LGA 02

“footpath” means that part of a road laid out or set aside for exclusive use by pedestrians and includes any berm

“hazardous substance” has the same meaning as in the district plan

“LGA 02” means the Local Government Act 2002

“LGA 74” means the Local Government Act 1974

“licence” has the same meaning as “approval”

“mobile advertising device” means an advertising device attached to a vehicle or trailer and includes a motor vehicle if the signwriting on the vehicle advertises goods or services but does not include a motorvehicle if the signwriting on the vehicle is limited to a business name, address, phone number and logo

“nuisance” means anything which is offensive or likely to be injurious to health and includes any of the nuisances deemed to be created by the circumstances listed in s 29 of the Health Act 1956

“occupier” means the person in possession of premises;

“organised event” means an assembly of people at a specific time for a specific purpose;

“owner”, in relation to premises, means the person for the time being entitled to receive the rent of the premises, whether on an own account or as the agent or trustee for any other person, or who would be so entitled if the premises were let at a rent and includes any person for the time being registered under the Land Transfer Act 1952 as the proprietor of the premises

“parking warden” means a person appointed by the Council under s 128D of the Land Transport Act 1998

“person” includes a corporation sole, a body corporate and an unincorporated body

“poultry” means all types of domestic fowls and includes geese, ducks, pigeons, swans, turkeys and roosters

“premises” means any land and/or building comprised in a single certificate of title or any self-contained and separately occupied part of any premises

“public place” means a place that, at any material time, is open to or is lawfully being used by the public, whether free or on payment of a charge, notwithstanding that any owner or occupier of that place is entitled to exclude or eject any person from that place and, for the avoidance of doubt, includes:

- a beach
- a road
- an aircraft, hovercraft, ship, ferry or vehicle carrying passengers for reward
- a cemetery or crematorium
- the foreshore
- a park
- a reserve under the Reserves Act and
- premises used by the Council for the purposes of service delivery, including (but not limited to) an administrative office, community centre, swimming pool, library or art gallery

“public notice” has the same meaning as in s 5 of LGA 02 and “publicly notified” has a corresponding meaning

“RMA” means the Resource Management Act 1991

“road” has the same meaning as in s 315 of the Local Government Act 1974 and includes all land, including any berm, footpath, cycle path or carriageway, within the legal boundaries of the road

“rural area” means those parts of the district defined as “Rural Areas/Zones” in the district plan

“shared zone” means part of a road intended to be used by pedestrians and vehicles

“sports field” means any part of a public place which is laid or set aside for playing organised games or sports and includes an area used for practising a sport or game but, for the avoidance of any doubt, does not include an area beside a sports field used by spectators

“stock” means animal which may be farmed for the production of meat, milk, fibre or hides, extends to include a horse, donkey or mule and, for the avoidance of doubt, includes any animal kept as a pet

“urban area” means those parts of the district defined as “Urban Areas/Zones” in the district plan

“vehicle” has the same meaning as in the Land Transport Act 1998 and, for the avoidance of doubt, includes a bicycle, hovercraft, skateboard, in-line skates and roller skates

“working day” means a day of the week other than:

- a Saturday, Sunday or public holiday as observed throughout New Zealand
- Hawkes Bay Anniversary Day and
- Any day in the period commencing with 20 December in a year and ending with 10 January in the following year

## **1.4 Interpretation**

1.4.1 The Interpretation Act 1999 applies to this Bylaw.

1.4.2 The interpretation rules set out below apply to all parts of the Bylaw.

1.4.3 In this Bylaw:

- (a) Words referring to the masculine, feminine or neuter gender refer also to the other genders;
- (b) Singular words include the plural and vice versa;
- (c) The phrase “part of the Bylaw” refers to a Chapter of the Bylaw or to part of a Chapter, as the context requires;
- (d) In the event of inconsistency or interpretation conflict between this part of the Bylaw and any other part of the Bylaw, the latter prevails;
- (e) In the event of any inconsistency or conflict between the provisions of any part of the Bylaw and any rule in the district plan, the latter shall prevail;
- (f) In the event of any inconsistency or conflict between the conditions of an approval and the conditions of a resource consent granted under RMA relating to the same activity, the latter prevails.

## **1.5 Approvals and dispensations**

1.5.1 A person proposing to do anything or to cause any condition to exist for which a licence, permit, approval or dispensation (however described) is required under the Bylaw must first obtain an approval.

1.5.2 A person seeking an approval must make application on the prescribed form (if any), supply any supporting information that may be required and pay the application fee.

1.5.3 An approval may be granted for a single event, on a temporary basis, for a fixed term or until further notice and upon such terms and conditions as the Council thinks fit.

1.5.4 An application for an approval, or the payment of the application fee, does not confer any right, authority or immunity on the person making that application or payment. The Council shall be under no obligation to grant an approval.



1.5.5 If the Council believes that a condition of an approval has been breached or is being breached the Council may, without the need to give any preliminary or warning notice:

- (a) prosecute the person responsible for the breach for an offence under the Bylaw; and
- (b) suspend the approval for a specified period; or
- (c) cancel the approval.

1.5.6 A person whose application for an approval was declined, or who is unhappy with a decision made under clause 1.5.3 or clauses 1.5.5(b) or (c) may apply to the Council for a review of that decision.

## **1.6 Service of notices**

1.6.1 Any notice or document required to be given under the Bylaw may be delivered to that person either personally or by sending it to the person's last known address, place or abode or business, and in the case of a company to its registered office, by messenger or by ordinary post.

1.6.2 If the person to whom the notice or document is to be given is:

- (a) deceased; or
- (b) absent from New Zealand,

the notice or document may be sent to that person's personal representative, executor, attorney or other authorised agent .

1.6.3 If the person to whom the notice or document is to be given is not known, or is absent from New Zealand and has no known agent in New Zealand, and the notice or document relates to any premises, the notice or document may be served occupier of those premises or, if there is no occupier, may be affixed to some conspicuous part of the premises.

1.6.4 Where a notice or document is sent by post it shall be deemed to have been served at the time when the letter would be delivered in the ordinary course of post.

## **1.7 Offences**

1.7.1 Every person who acts contrary to any prohibition contained in the Bylaw, or to any condition of an approval, or any requirement or condition made by publicly notified resolution in accordance with the Bylaw, commits an offence against the Bylaw.

## **1.8 Fees and Charges**

1.8.1 The Council may by publicly notified resolution set or vary any fee or charge in respect of any matter provided for in this Bylaw. Where a fee or charge relates to the use of or entry to a public place, payment of the fee or charge shall be a condition of use or entry.

## CHAPTER 3 DOG CONTROL

### 3.1 Authority

3.1.1 This part of the Bylaw is made under s 20 of the Dog Control Act 1996

### 3.2 Definitions

3.2.1 In this part of the Bylaw

“at large” means that the dog is not under leash control when required under this bylaw”

“DCA” means the Dog Control Act 1996

“dog exercise area” means an area within the district where dogs may be exercised off leash and includes the areas listed in Schedule A to this chapter and any other area of the district designated by the Council, by publicly notified resolution as a dog exercise area.

“dog prohibited area” means an area within the district listed in Schedule B to this chapter, and any other area of the district designated by the Council by publicly notified resolution as an area prohibited to dogs

“leash controlled area” means:

- any public place or private way within the urban area of the district; or
- any park, reserve, beach, walkway or cycleway within the rural area of the district; or
- the beach front of the Ocean Beach settlement north to the surf club during daylight saving hours between 7.30am and 7.30pm and during the remainder of the year between 7am and 6pm; or
- the beach front at Waipatiki Beach Settlement, on the seaward side of the reserve, during daylight saving hours between 7.30am and 7.30pm and during the remainder of the year between 10.00am and 4.00pm; and

not otherwise being an area or place referred to in Schedules A or B to this Chapter)

“neutered” means spayed or castrated

“owner” has the same meaning as in s 2 of DCA

“private way” has the same meaning as in s 315(1) of the Local Government Act 1974

“road” has the meaning given to it in Chapter 1 but extends to include a state highway or a motorway

“special purpose dog” means all working dogs other than dogs kept principally for the purposes of herding or driving stock

“working dog” has the same meaning as in s 2 of DCA

### **3.3 Dog prohibited areas**

3.3.1 An owner must not allow a dog to enter, or take a dog into, a dog prohibited area.

3.3.2 Nothing in clause 3.3.1 applies to the owner of a special purpose dog.

### **3.4 Leash control**

3.4.1 An owner must keep a dog under leash control at all times when:

- (a) within a leash controlled area
- (b) the dog is in some other place and is causing or is likely to cause danger, distress or nuisance to a person or another animal

3.4.2 Nothing in clause 3.4.1 (a) applies to the owner of a special purpose dog or to the owner of a dog which is kept solely or principally for the purposes of herding or driving stock when the dog is engaged in that activity.

3.4.3 An owner must not leave a dog unattended within, or on the open tray of, a vehicle without ensuring that the dog is restrained by a leash, or some other effective means, from leaving the vehicle and lunging or snapping at people passing by the vehicle.

### **3.5 Limiting the number of dogs kept**

3.5.1 A person must not keep, or allow to be kept, more than two dogs on any premises within the urban area, without an approval.

3.5.2 Nothing in clause 3.5.1 applies to a dog under the age of 3 months.

### **3.6 Dog fouling**

3.6.1 An owner of a dog which fouls in a public place, private way or on premises which are not occupied by the owner must immediately remove the faecal matter and carry it away for sanitary disposal.

3.6.2 An owner who takes a dog outside the owner's premises must at all times carry a suitable receptacle to enable compliance with clause 3.6.1.

3.6.3 For the avoidance of doubt, placing a dog's faeces in a securely tied plastic or leak proof bag in a disposal bin or a litter bin provided in a public place by the Council will satisfy the owner's obligation under clause 3.6.1.

### **3.7 Bitch in season**

3.7.1 An owner of every bitch in season must keep it confined, but adequately exercised, while in season.

### **3.8 Impounding and neutering**

3.8.1 A dog found at large in breach of this bylaw may be impounded by the Council.

3.8.2 The Council may give written notice to an owner of a dog which has been impounded by the Council under clause 3.8.1 on more than 3 occasions within a continuous period of 24 months, requiring that dog to be neutered at the owner's expense (whether or not the owner of the dog has been convicted of an offence against sections 52A or 53 of the Dog Control Act 1996).

3.8.3 An owner given notice under clause 3.8.2 must produce to the Council, within one month after service of the notice a certificate issued by a registered veterinarian that the dog has been neutered.

3.8.4 An owner who fails to comply with clauses 3.8.2 and 3.8.3 commits an offence under this bylaw.

### **3.9 Care and accommodation of dogs**

3.9.1 An owner of a dog which is suffering from a communicable disease or infection must ensure that the dog is properly treated for the disease or complaint and, except for taking the dog for treatment, must ensure that the dog is confined to the owner's premises while it is so affected.

3.9.2 An owner of a dog must ensure that it is accommodated in a manner, and in a location, on the premises whereby the presence of the dog does not give rise to noises (other than barking) or smells which are a nuisance or annoyance to the occupier of adjoining premises.

## Schedule A to Chapter 3

### Dog Exercise areas

#### **Havelock North**

- Tainui, Tanner and Hikanui Reserves
- Tauroa Road Reserve
- Te Mata and Arataki Road Reserve
- Kingsgate Reserve from Te Mata Road to Reeve Drive, Ritchie Place, Fulford Place and Durham Drive
- The banks of the Karamu Stream, from a point adjacent to the southern most edge of Anderson Park, Havelock North to the vehicle over bridge on Havelock Road
- The southern boundary walkway of Keirunga Gardens on Tanner Street, Havelock North
- Te Mata Peak Park
- James Cook Street Reserve
- Palmbrook Reserve

#### **Hastings**

- Karamu Road South, from Pattison Road south to Murdoch Road
- Ebbett Park during daylight saving hours between 7.30pm and 7.00am the following day, and between 6.00pm and 7.00am the following day during the remainder of the year.
- Duke Street Reserve.
- Pakowhai Country Park.

#### **Flaxmere**

- Portsmouth Road, from Wilson Road, west to the end of Portsmouth Road
- The Flaxmere Green Belt to the west of Tarbet Street, Arklow Place and Frobisher Street between Kirkwood Road and Flaxmere Avenue.

#### **Haumoana and Te Awanga**

The Haumoana-Te Awanga coastal beach front area from the mouth of the Tukituki River south to the boundary of the Clifton No. 2 camp, Te Awanga, excluding the beach front between numbers 3 and 41 Clifton Road Haumoana.

#### **Waimarama and Ocean Beach**

- The beach front of the Ocean Beach settlement north to the surf club during daylight saving hours between 7.30pm and 7.30am the following day, and 6pm and 7am the following day during the remainder of the year
- Ocean Beach north of the surf life saving club to 100m south of the predator proof fence
- Waimarama Beach north to the Puhokio Stream river mouth during daylight saving hours between 7.30pm and 7.30am the following day, and during the remainder of the year 6pm and 7am the following day
- Waimarama Beach north of the Puhokio Stream river mouth to Pututaranui Point at any time

### **Whirinaki and Eskdale**

- The North Shore and Whirinaki to Tangoio Beach road reserve
- Eskdale Park along the southern or right-hand side of, and to the end of the park driveway.

### **Waipatiki Beach**

The beach front of Waipatiki Beach Settlement, coast-wards of the reserve, during daylight savings hours between 7:30pm and 7:30am the following day, and during the remainder of the year.4:00pm to 10:00am the following day

Wapatiki beach north and south of the area referred to above

## Schedule B to Chapter 3

### Prohibited Areas

1. The Hastings District Council Civic Building.
2. Public libraries.
3. Swimming pools and paddling pools.
4. Children's playing areas.
5. Sports fields.
6. Rangaiika Beach at Ocean Beach/Cape Kidnappers.