

NORTHERN TERRITORY OF AUSTRALIA

NHULUNBUY (ANIMAL CONTROL) BY-LAWS

As in force at 10 February 2000

Table of provisions

| | | |
|-------------------|---|----|
| Part 1 | Preliminary | |
| Division 1 | General | |
| 1 | Citation | 1 |
| 2 | Application and purpose | 1 |
| 3 | Crown to be bound | 1 |
| 4 | Interpretation | 1 |
| 5 | Determinations, including determinations of charges, &c. | 4 |
| 6 | Registrar | 5 |
| 7 | Registers | 5 |
| 8 | Matters of evidence | 6 |
| Division 2 | Licences and registrations | |
| 9 | Definition..... | 6 |
| 10 | Application for licences | 6 |
| 11 | Grant of licence, &c. | 7 |
| 12 | Compliance with licence | 7 |
| Division 3 | Regulatory | |
| 13 | Compliance with notices | 7 |
| 14 | Obstruction of officers, &c..... | 7 |
| 15 | False statement in documents..... | 8 |
| 16 | General penalty | 8 |
| 17 | Fixed penalties | 8 |
| Part 2 | Animals generally | |
| 18 | Diseased and injured animals and animals at large | 9 |
| 19 | Removal, &c., of dead or diseased, &c., animals | 9 |
| 20 | Occupier is taken to be owner | 10 |
| Part 3 | Control of dogs | |
| Division 1 | Preliminary | |
| 21 | Interpretation | 10 |
| 22 | Exemptions..... | 10 |

| | | |
|-------------------|---|----|
| Division 2 | Registration of dogs | |
| 23 | Special considerations in determination of application for registration..... | 10 |
| 24 | Identification device | 12 |
| Division 3 | Licensing of premises | |
| 25 | Licensing premises..... | 12 |
| Division 4 | Cancellation, variation, &c., of registration and licences | |
| 26 | Cancellation, variation, &c., of registration or licence by request | 13 |
| 27 | Cancellation, variation, &c., of registration or licence otherwise than by request..... | 13 |
| 28 | Operation of notice of cancellation | 14 |
| Division 5 | Dog exercise areas and dog restriction areas | |
| 29 | Dog exercise areas and dog restriction areas | 14 |
| Division 6 | Offences | |
| 30 | Unregistered dogs | 15 |
| 31 | Requirement for licence..... | 15 |
| 32 | Keeping dogs in dog restriction area | 15 |
| 33 | Removal of identification device | 16 |
| 34 | Dogs at large | 16 |
| 35 | Female dogs in oestrus | 17 |
| 36 | Enticement..... | 17 |
| 37 | Dogs attacking or menacing persons or animals..... | 17 |
| 38 | Dogs chasing vehicles..... | 18 |
| 39 | Dogs causing nuisance | 18 |
| 40 | Abandoning dogs..... | 18 |
| 41 | Obstruction of pound supervisor, &c..... | 19 |
| 42 | Sterilisation marks and certificates | 19 |
| Division 7 | Enforcement | |
| 43 | Seizure of dogs..... | 20 |
| Division 8 | Pounds | |
| 44 | Establishment of pounds, &c. | 20 |
| 45 | Notice of impounding | 20 |
| 46 | Release of dogs from pounds..... | 21 |
| 47 | Diseased dogs..... | 21 |

| | | |
|----|---|----|
| 48 | Sale or disposal of impounded dogs..... | 22 |
|----|---|----|

Division 9 Miscellaneous

| | | |
|----|-------------------------------------|----|
| 49 | Change of ownership of dog, &c..... | 23 |
| 50 | Dog races, &c. | 23 |

Schedule 1

Schedule 2 Determinations

Schedule 3

Schedule 4 Fixed penalties

ENDNOTES

NORTHERN TERRITORY OF AUSTRALIA

As in force at 10 February 2000

NHULUNBUY (ANIMAL CONTROL) BY-LAWS

Regulations under the *Local Government Act*

Part 1 Preliminary

Division 1 General

1 Citation

These By-laws may be cited as the *Nhulunbuy (Animal Control) By-laws*.

2 Application and purpose

- (1) These By-laws apply to and are in force within the whole of the area described in the Schedule to the instrument made under section 128(1) of the Act (for the purpose of extending to the Corporation the functions, by-law making powers and enforcement powers of a municipal council in relation to Animal Control and Animal Impounding) and published in *Gazette* No. G50 dated 17 December 1997, a copy of which is set out in Schedule 1.
- (2) The purpose of these By-laws is to provide for the keeping of animals within the corporation area in a manner compatible with the enjoyment by residents of a congenial living environment.

3 Crown to be bound

These By-laws bind the Crown in right of the Territory.

4 Interpretation

- (1) In these By-laws, unless the contrary intention appears:

abandon, in relation to a dog, includes deliberately leaving the dog at premises or failing to obtain the release of the dog from a pound.

animal means an animal that is kept on private premises in the corporation area, and includes dogs, cats, birds and reptiles.

appropriate fee means the fee determined by the Corporation to be the fee for a licence, registration or other matter or for a class of licence, registration or other matter.

approved means approved by the Corporation by resolution.

attack, in relation to the actions of a dog, means an action of a dog that involves the dog rushing at, biting, chasing, menacing or worrying a person or another animal and, in so doing, the dog actually touches the person or animal or the clothing or other property in the immediate possession or under the immediate control of the person, whether or not any injury or damage occurs to the person, animal or property.

Corporation means the Nhulunbuy Corporation Limited ACN 009 596 598.

corporation area means the areas described in the Schedule to the instrument referred to in by-law 2(1), a copy of which is set out in Schedule 1.

determined means determined by the Corporation by resolution.

dog means an animal of the genus *Canis*.

dog exercise area means a dog exercise area declared under by-law 29.

dog restriction area means a dog restriction area declared under by-law 29.

dog-tag means a dog-tag issued under by-law 24.

guide dog means a dog trained by a guide dog training institution approved by the Corporation and used as a guide by a person who is wholly or partially blind or deaf.

identification device means a device or mark used for identifying an animal registered under these By-laws and includes a dog-tag, permanent electronic subcutaneous implant, tattoo or other approved device or mark.

licence means a licence granted under these By-laws for the keeping of dogs on the premises in respect of which the licence is granted, and includes a renewal of a licence.

menace, in relation to the actions of a dog, means an action that creates a reasonable apprehension in a person that the dog is likely to attack the person, another person or an animal owned or in the control of the first-mentioned person, and includes a reasonable

apprehension that the dog may escape or be released from restraint to attack a person or the animal.

owner, in relation to:

- (a) an animal (except a dog), means, in the absence of proof to the contrary, the person for the time being in control of the animal; and
- (b) a dog, means the person whose name appears in the appropriate register as the owner of the dog or the person for the time being in control of the dog.

permanent electronic subcutaneous implant means an electronic device that can be implanted into the tissue of a dog for the purpose of identifying the dog.

pound means a pound established or maintained in accordance with Division 8 of Part 3 of these By-laws.

pound supervisor means a person appointed to be a supervisor of a pound under by-law 44(2).

premises includes a building and land (whether built on or not).

public place includes:

- (a) every place to which free access is permitted to the public, with the express or tacit consent of the owner or occupier of the place;
- (b) every place to which the public are admitted on payment of money, the test of the admittance being the payment of the money only;
- (c) every road, street, footway, court, alley, thoroughfare or cul-de-sac which the public are allowed to use, notwithstanding that the road, street, footway, court, alley, thoroughfare or cul-de-sac may be formed on private property; and
- (d) land reserved under a law of the Territory for the use of the public or a member of the public.

register means a register established in pursuance of by-law 7.

registrar means the person appointed under by-law 6 to be the registrar.

registered owner, in relation to a dog, means the person specified in the appropriate register as the owner of the dog.

Town Administrator means the person who is responsible for exercising the powers and performing the functions under and in relation to these By-laws that, if the Corporation was a municipal council and the corporation area was a municipality, the clerk would be exercising or performing.

vehicle means a conveyance or other device designed to be propelled or drawn by any means and includes a bicycle, tricycle, motor vehicle, wheelchair and an animal being driven or ridden.

veterinarian means a registered veterinarian within the meaning of the *Veterinarians Act*.

- (2) A reference in these By-laws to a dog at large is a reference to a dog, other than a dog in the custody of an authorised person or in a pound, in a place other than premises owned or occupied by the owner of the dog.
- (3) For the purposes of these By-laws, a dog is under effective control if the dog is:
 - (a) restrained by a leash, cord, chain or similar device that is not longer than 3 metres and that is held by a person who has attained the age of 12 years and is competent to restrain the dog;
 - (b) enclosed in a vehicle (which includes being in or on the back of a flat topped, tray backed or well bodied vehicle) in such a manner that no part of the dog is projecting from the vehicle; or
 - (c) in a dog exercise area in accordance with the conditions, if any, to which use of the area is subject and the dog is not a female dog in oestrus.

5 Determinations, including determinations of charges, &c.

- (1) Where the Corporation makes a determination under this By-law, it is to publish a notice of its making in a newspaper circulating in the corporation area as soon as reasonably possible after the determination is made.
- (2) The Corporation may determine the charges, dues and fees in relation to an animal, undertaking, service, matter or thing referred to in these By-laws.

- (3) Where the Corporation, in the exercise of a power or the performance of a function under these By-laws:
- (a) supplies a service, product or commodity;
 - (b) grants a licence;
 - (c) makes a registration;
 - (d) furnishes information;
 - (f) receives an application;
 - (g) permits inspection of a register;
 - (h) allows the use of real or personal property of or under its care;
or
 - (j) takes any other action in relation to which a determination is made,

it may demand and recover the relevant amount determined under clause (2).

- (4) The Corporation may make determinations in relation to a matter or thing set out in Column 1 of Schedule 2 and, for that purpose, may take into account a matter specified in Column 2 of that Schedule.

6 Registrar

The Corporation may appoint a person to be the registrar for the purposes of these By-laws.

7 Registers

- (1) The registrar is to keep the number of registers as the Corporation determines.
- (2) The registrar may keep a register in the medium or combination of mediums as the registrar thinks fit, including a computer, microfilm or paper.
- (3) The information recorded in the register or registers kept under these By-laws is to include the particulars of:
- (a) all dogs registered by the Corporation;
 - (b) all licences granted by the Corporation; and

- (c) all offences against these By-laws:
 - (i) for which a registered owner of a dog has been convicted; or
 - (ii) in respect of which a registered owner of a dog has paid a sum specified by these By-laws in pursuance of a notice of infringement issued under these By-laws.

8 Matters of evidence

- (1) An extract from or copy of an entry in a register purported to be signed by the registrar is, in all courts and on all occasions, evidence of the signature of the registrar and of the particulars contained in the entry without requiring the production of the register.
- (2) A statement signed by the registrar concerning particulars of entries in a register, including:
 - (a) whether the name of a person was entered in a register in relation to an animal, matter or thing; or
 - (b) whether a licence or registration had been issued,is to be received in a court, the Tribunal or by a person acting judicially as evidence of the signature of the registrar and of those particulars without requiring the production of the register.
- (3) In relation to the making of a resolution by the Corporation for the purposes of these By-laws, the minutes of a meeting of the Corporation or a document purporting to be a true copy of, or an extract from, the minutes of a meeting of the Corporation signed by the Town Administrator is to be received in a court, the Tribunal or by a person acting judicially as evidence of the particulars contained in the minutes, or that extract or copy, without further proof.

Division 2 Licences and registrations

9 Definition

In this Division, *licence* includes registration.

10 Application for licences

- (1) A person may apply to the Corporation for the grant of a licence required under these By-laws.

- (2) An application is to be:
 - (a) in the approved form;
 - (b) accompanied by the appropriate fee; and
 - (c) accompanied by any other documents, specifications or particulars that the Corporation may require.
- (3) An application for the renewal of a licence is to be made to the Corporation not less than 14 days before the expiration of the licence.

11 Grant of licence, &c.

- (1) The Corporation may grant or renew, or refuse to grant or renew, a licence.
- (2) A licence remains in force for:
 - (a) the period of 12 months commencing on the date of the grant or renewal of the licence; or
 - (b) if a period of less than 12 months is endorsed on the licence – that period.
- (3) A licence may be subject to the conditions the Corporation thinks fit and endorses on the licence including conditions that may lead to immediate revocation of the licence if they are breached or not complied with.
- (4) A licence is not transferable.

12 Compliance with licence

A licence is to be complied with and not contravened by the person to whom it is granted.

Division 3 Regulatory

13 Compliance with notices

A requirement of a notice served by the Corporation under these By-laws is to be complied with by the person on whom it is served.

14 Obstruction of officers, &c.

- (1) It is an offence for a person to obstruct, hinder, disturb or interrupt an authorised person, an officer or employee of the Corporation, a contractor or sub-contractor to the Corporation or an employee of

the contractor or sub-contractor in the proper execution of his or her work or duty under these By-laws.

- (2) An offence against clause (1) is a regulatory offence.

15 False statement in documents

A person who, in making a statement required or permitted to be made in a document under these By-laws, knowingly makes a false statement is guilty of an offence.

16 General penalty

Subject to by-laws 42 and 49, a person who contravenes or fails to comply with these By-laws commits an offence and is liable on conviction to a penalty not exceeding \$3,000 and, in addition, to a penalty not exceeding \$100 for each day during which the offence continues.

17 Fixed penalties

- (1) Notwithstanding by-law 16, a person who is alleged to have contravened or failed to comply with these By-laws and on whom a notice of infringement is served, may pay to the Corporation, as an alternative to prosecution, the sum specified by this by-law in lieu of the penalty that may otherwise be imposed under these By-laws.
- (2) For the purposes of this by-law:
- (a) a notice of infringement is to be in the form set out in Schedule 3;
 - (b) a notice of infringement may be issued by an authorised person;
 - (c) the sum specified by this by-law is \$50 or, in the case a by-law specified in Column 1 of Schedule 4, the sum specified opposite the by-law in Column 2 of that Schedule;
 - (d) the sum specified by this by-law may be paid to the Corporation or to the person from time to time performing or carrying out the duties of a cashier on behalf of the Corporation; and
 - (e) in order to avoid prosecution, the sum specified by this by-law is to be paid not later than 14 days after the date of the service of the notice of infringement on the person.

Part 2 Animals generally**18 Diseased and injured animals and animals at large**

- (1) The Corporation may, by notice in writing, require the owner of:
- (a) a diseased, injured, savage or destructive animal (whether it is on private premises or in a public place); or
 - (b) an animal at large in a public place that, if left at large, is likely to be a danger to the safety of the public,
- to immediately remove or otherwise dispose of the animal and may, if it is reasonable to do so, require the destruction of the animal.
- (2) Notwithstanding clause (1), an authorised person may:
- (a) seize an animal:
 - (i) that the authorised person believes on reasonable grounds to be diseased, injured, savage, destructive, stray or unregistered; or
 - (ii) that is at large; or
 - (b) where, in the opinion of an authorised person it is necessary to do so:
 - (i) destroy an animal that the authorised person believes on reasonable grounds to be diseased, injured, savage, destructive, unclaimed, unregistered or unwanted; or
 - (ii) apply to the Local Court for an order relating to the destruction of the animal.

19 Removal, &c., of dead or diseased, &c., animals

- (1) The Corporation may cause the carcass of a dead animal that is found in a public place to be removed or disposed of.
- (2) The Corporation may, without notice to the owner of a dead, diseased or injured animal that is likely to be a danger to the safety of the public, cause the carcass or the animal to be removed or destroyed and disposed of.
- (3) Where the Corporation incurs expense in removing, destroying or disposing of an animal or a dead animal, the Corporation may recover the expense from the owner of the animal as a debt due and payable to the Corporation.

20 Occupier is taken to be owner

For the purposes of this Part, in the absence of evidence to the contrary the occupier of land where an animal or a dead animal is found is to be taken to be the owner of the animal.

Part 3 Control of dogs

Division 1 Preliminary

21 Interpretation

Unless the contrary intention appears, a reference in this Part to the owner of a dog (other than to the registered owner) includes:

- (a) the person for the time being under whose control the dog is;
- (b) the occupier of premises or a part of premises where the dog is usually kept; and
- (c) where the owner has not attained the age of 17 years, a parent or guardian of the owner,

but does not include a person controlling or keeping a dog under Division 7 or 8.

22 Exemptions

By-laws 30, 31 and 32 do not apply to or in relation to:

- (a) a guide dog; or
- (b) any other dog that the Corporation determines is exempt from those By-laws.

Division 2 Registration of dogs

23 Special considerations in determination of application for registration

- (1) The Corporation must, not later than 14 days after receiving an application for the registration of a dog:
 - (a) register or renew the registration of the dog, either conditionally or unconditionally; or
 - (b) refuse to register or renew the registration of the dog and refund to the applicant the fee accompanying the application.

- (2) The Corporation may refuse to register or renew the registration of a dog if:
- (a) within the period of 12 months before the date of the application the owner of the dog has been convicted of more than 2 offences against these By-laws;
 - (b) within the period of 12 months before the date of the application the dog has been impounded under these By-laws on more than 2 occasions;
 - (c) the Corporation is satisfied that the dog is destructive, dangerous, savage or consistently the cause of nuisance to members of the public;
 - (d) the premises on which the dog is usually kept are not fenced in the manner determined by the Corporation; or
 - (e) within the period of 12 months before the date of the application the Corporation received 2 or more complaints relating to:
 - (i) the state of (including odour emanating from) the premises where the dog is usually kept caused by or as a result of keeping the dog; or
 - (ii) the unauthorised presence of the dog on land or premises other than the land or premises where the dog is usually kept.
- (3) The Corporation must refuse to register or renew the registration of a dog if:
- (a) in keeping the dog on the premises on which the dog is usually kept, the applicant would be in breach of by-law 31; or
 - (b) the dog, other than a dog referred to in by-law 32(4), is usually kept on premises within a dog restriction area.
- (4) If the Corporation refuses to register or renew the registration of a dog or imposes conditions on the registration or renewal of the registration of a dog, the Corporation must serve on the applicant a statement in writing of the reasons for its decision.
- (5) For the purposes of clause (2)(a), a conviction for an offence includes the payment of a sum specified in by-law 17(2)(c) in pursuance of a notice of infringement issued under these By-laws.

24 Identification device

- (1) Where the Corporation registers or renews the registration of a dog under by-law 23, it must, unless the dog is fitted with a permanent electronic subcutaneous implant issued by the Corporation, issue to the person who made the application a dog-tag for fitting to the dog.
- (2) Where the Corporation issues a dog-tag to the owner of a dog, the owner, unless exempted by the Registrar, must ensure that:
 - (a) the tag is fixed to a collar on the dog; and
 - (b) the tag remains displayed on a collar on the dog,while the registration of the dog remains in force.
- (3) Where the Corporation issues to the owner of a dog a permanent electronic subcutaneous implant, the owner must cause the dog to be implanted with the device by a veterinarian not later than 14 days after the date of registration of the animal.

Division 3 Licensing of premises

25 Licensing premises

- (1) The Corporation must, not later than 14 days after receiving an application for the licensing of premises for the keeping of dogs:
 - (a) grant a licence or renew the licence in respect of the premises, either conditionally or unconditionally; or
 - (b) refuse to grant a licence or to renew the licence in respect of the premises and refund to the applicant the fee accompanying the application.
- (2) In considering an application under clause (1), the Corporation may take into account any matter that is in its opinion relevant, including:
 - (a) the facilities for controlling dogs at the premises specified in the application;
 - (b) the number of dogs kept or to be kept at the premises; and
 - (c) the likely impact on the residents in the locality where the premises are situated if the licence is granted or renewed.
- (3) Where the Corporation determines the manner in which premises are to be fenced, the Corporation must not grant or renew a licence for premises if the premises are not fenced in accordance with the determination.

- (4) Where an application is for the renewal of a licence and to the Corporation's knowledge:
- (a) no matters have arisen that, if taken into account at the time the licence was granted, would have caused the Corporation to refuse to grant the licence or to grant the licence subject to conditions other than those specified in the licence; or
 - (b) the Corporation has not, since the grant of the licence, made a determination referred to in by-law 31 that affects the premises,
- the Corporation may renew the licence without considering the application in the manner specified in clauses (2) and (3).
- (5) If the Corporation refuses to grant or renew a licence, grants a licence subject to conditions or renews a licence subject to conditions not imposed on the original licence, the Corporation must serve on the applicant a statement in writing of the reasons for its decision.

Division 4 Cancellation, variation, &c., of registration and licences

26 Cancellation, variation, &c., of registration or licence by request

The Corporation may, on the written application of the registered owner of a dog or the holder of a licence, by notice in writing served on the registered owner or holder:

- (a) cancel the registration of the dog or the licence;
- (b) vary the conditions to which the registration of the dog or the licence is subject; or
- (c) in the case of a licence – suspend the licence for the period, as requested in the application.

27 Cancellation, variation, &c., of registration or licence otherwise than by request

- (1) The Corporation may, by notice served on the registered owner of a dog or the holder of a licence, require the registered owner or holder to show cause why the Corporation should not:
- (a) cancel the registration of the dog or the licence;

- (b) vary, in the manner specified in the notice, the conditions to which the registration or the licence is subject; or
 - (c) in the case of a licence – suspend the licence for the period specified in the notice.
- (2) The Corporation may, not less than 14 days after the date of service of a notice under clause (1), by another notice in writing served on the registered owner or the holder of the licence on whom the notice was served under clause (1):
- (a) cancel the registration of the dog or cancel the licence;
 - (b) vary, in the manner specified in the notice, the conditions to which the registration of the dog or the licence is subject; or
 - (c) suspend the licence for the period specified in the notice (which is not to be longer than the period specified in the notice served under clause (1)).

28 Operation of notice of cancellation

A notice served by the Corporation under by-law 26 or 27(2) takes effect on the expiry of 14 days after the service of the notice.

Division 5 Dog exercise areas and dog restriction areas

29 Dog exercise areas and dog restriction areas

- (1) The Corporation may, by resolution, declare an area within the corporation area to be a dog exercise area and, in doing so, must specify the times when a dog may be exercised in the area and the other conditions, if any, to apply to the exercising of a dog in the area.
- (2) The Corporation may, by resolution, declare an area within the corporation area to be a dog restriction area and may prohibit the keeping in the area of:
 - (a) all dogs;
 - (b) more than a specified number of dogs; or
 - (c) all or more than a specified number of dogs of a specified breed.
- (3) The Corporation must publish a notice of its intention to declare a dog exercise area or dog restriction area in a newspaper circulating in the corporation area not less than 21 days before making the declaration.

Division 6 Offences

30 Unregistered dogs

- (1) A person commits an offence if the person keeps a dog that is not registered within the corporation area.
- (2) An offence against clause (1) is a regulatory offence.
- (3) It is a defence to a prosecution for an offence against clause (1) if the person charged with the offence proves that the dog had not been usually kept in the corporation area for a period of 3 months or more immediately before the date of the alleged offence or for periods totalling 3 months during the 6 month period immediately before that date.
- (4) Clause (1) does not apply to:
 - (a) a pound supervisor keeping a dog in a pound;
 - (b) the RSPCA (N.T.) Incorporated keeping a dog in a refuge maintained by it;
 - (c) a veterinarian keeping a dog for the purposes of treatment; or
 - (d) a dog under the age of 3 months.
- (5) The burden of proof as to whether a dog is under the age of 3 months lies on the person averring the age of the dog.

31 Requirement for licence

- (1) The occupier of premises that are not licensed who keeps on the premises more than the number of dogs or the number of dogs of a class of dog determined by the Corporation to be the number of dogs or dogs of a class of dog that may be kept on unlicensed premises commits an offence.
- (2) It is a defence to a prosecution of an offence against clause (1) if the occupier of the premises proves that the dogs or the dogs of the class of dog had not been usually kept at the premises for a period of 3 months or more immediately before the date of the alleged offence or for periods totalling 3 months during the 6 month period immediately before that date.

32 Keeping dogs in dog restriction area

- (1) A person who keeps a dog in a dog restriction area where keeping the dog is prohibited commits an offence.

- (2) If a dog is present in a dog restriction area and the presence of the dog is prohibited, the owner of the dog commits an offence.
- (3) An offence against clause (1) or (2) is a regulatory offence.
- (4) It is a defence to a prosecution for an offence against this by-law if the person charged with the offence proves that, at the date of the making of the resolution declaring the dog restriction area, the dog:
 - (a) was owned by the person;
 - (b) was usually kept at premises in the dog restriction area; and
 - (c) if required by these By-laws to be registered, was registered.

33 Removal of identification device

- (1) A person, other than the owner of a dog, who without reasonable cause removes an identification device from a registered dog commits an offence.
- (2) The owner of a registered dog who permits the dog to be at large without an identification device commits an offence.
- (3) It is a defence to a prosecution for an offence against clause (2) if the owner of the dog proves that the identification device was removed:
 - (a) without the owner's permission and the owner had not had sufficient opportunity to replace the identification device; or
 - (b) for a reasonable cause and the cause was still existent at the date of the alleged offence.
- (4) A person who fits an identification device on a dog that is not the dog for which the device was issued commits an offence.

34 Dogs at large

- (1) The owner of a dog commits an offence if the dog, when at large, is not under effective control.
- (2) An offence against clause (1) is a regulatory offence.
- (3) It is a defence to a prosecution for an offence against clause (1) if the person charged with the offence proves:
 - (a) that the dog, when at large, was properly in a dog exercise area; and

- (b) that the person was not in breach of a condition applying to the exercising of the dog in the dog exercise area.

35 Female dogs in oestrus

- (1) Subject to clause (2), the owner of a female dog in oestrus that is in a public place commits an offence.
- (2) This by-law does not apply to or in relation to a female dog that is:
 - (a) under effective control; and
 - (b) being taken to:
 - (i) a veterinarian for treatment;
 - (ii) a kennel for boarding;
 - (iii) a stud dog for breeding purposes;
 - (iv) a conformation show; or
 - (v) any other event or place approved by the registrar.

36 Enticement

A person who entices or induces a dog to act in a manner that would render the owner of the dog liable to prosecution for an offence against this Part commits an offence.

37 Dogs attacking or menacing persons or animals

- (1) The owner of a dog that:
 - (a) attacks a person or animal; or
 - (b) menaces a person or animal,commits an offence.
- (2) It is a defence to a prosecution for an offence against clause (1) if the owner of the dog proves that:
 - (a) a person had, without the owner's permission, enticed the dog to attack or menace the person or animal;
 - (b) the animal attacked or menaced was attacked or menaced on premises owned or occupied by the owner; or

- (c) the person attacked or menaced was attacked or menaced on premises owned or occupied by the owner and the person:
 - (i) was on the premises for an illegal purpose; or
 - (ii) was attacked or menaced other than when proceeding by the shortest practical route from a boundary of the premises to the door of the premises closest to the boundary or from the door to the boundary.

38 Dogs chasing vehicles

- (1) The owner of a dog that chases a vehicle commits an offence.
- (2) An offence against clause (1) is a regulatory offence.

39 Dogs causing nuisance

- (1) The owner of a dog that, either by itself or in concert with other dogs, is a nuisance commits an offence.
- (2) For the purposes of this by-law, a dog is a nuisance if it is injurious or dangerous to the health of the community or an individual, or behaves repeatedly in a manner contrary to the general interest of the community or an individual.
- (3) Without limiting the generality of clause (2), a dog is a nuisance if it:
 - (a) creates a noise, by barking or otherwise, that persistently occurs or continues to a degree or extent that has a disturbing effect on the state of reasonable mental, physical or social well-being of a person;
 - (b) repeatedly barks when people or vehicles use a public place in the vicinity of the premises where the dog is kept; or
 - (c) repeatedly defecates in a place causing annoyance to a particular person.
- (4) The owner of a dog does not commit an offence against this by-law by reason of the actions of the dog referred to in clause (3)(c) if the owner immediately removes the faeces and disposes of it in a public garbage receptacle or on his or her own property.

40 Abandoning dogs

A person who abandons a dog in the corporation area commits an offence.

41 Obstruction of pound supervisor, &c.

- (1) A person who obstructs or hinders a pound supervisor in the execution of his or her duties commits an offence.
- (2) A person who:
 - (a) removes or attempts to remove a dog from the custody of an authorised person; or
 - (b) except in pursuance of Division 8, removes or attempts to remove a dog from a pound,commits an offence.

42 Sterilisation marks and certificates

- (1) The Corporation may approve:
 - (a) a certificate of sterilisation to be issued to the owner of a sterilised dog; and
 - (b) a mark to be used to identify a dog that has been sterilised.
- (2) Where the Corporation has approved a certificate of sterilisation under clause (1), a veterinarian must, on sterilising a dog, issue such a certificate to the owner of the dog.
- (3) Where the Corporation has approved a mark under clause (1), a person must not mark a dog that has not been sterilised with the approved mark.
- (4) A person selling or disposing of a dog to another person, must not:
 - (a) if the dog has been sterilised – fail to supply to the other person the proof that the dog has been sterilised; or
 - (b) if the dog has not been sterilised – state or hold out that the dog is sterilised.
- (5) A person who contravenes or fails to comply with clause (2), (3) or (4) commits an offence.

Penalty: \$200.

Division 7 Enforcement

43 Seizure of dogs

An authorised person who seizes a dog must as soon as practicable:

- (a) deliver the dog to a pound; or
- (b) return the dog to its owner:
 - (i) at the time of issuing a notice of infringement to the owner; or
 - (ii) in the case of a dog referred to in by-law 36, without issuing a notice of infringement.

Division 8 Pounds

44 Establishment of pounds, &c.

- (1) The Corporation may:
 - (a) establish a pound; or
 - (b) make such arrangements as it thinks fit for the use of premises for impounding dogs under this Part.
- (2) The Corporation may appoint the persons it thinks fit to be pound supervisors of a pound.

45 Notice of impounding

- (1) Where a registered dog with an identification device is delivered to a pound, a pound supervisor must notify the registrar who must serve on the registered owner a notice, in the approved form, of the impounding of the dog.
- (2) Where a dog with a collar on which the address of its owner is displayed is delivered to a pound, a pound supervisor must notify the registrar who may serve at the address a notice, in the approved form, of the impounding of the dog.
- (3) Except as required by clause (1) or (2), the registrar is not obliged to notify the owner of a dog of the impounding of the dog.

46 Release of dogs from pounds

- (1) An impounded dog is not to be released from the pound:
 - (a) unless it is registered;
 - (b) other than to the owner of the dog or to a person authorised to act as the owner's agent; and
 - (c) unless there is paid to the Corporation the appropriate maintenance and release fees.
- (2) Clause (1)(a) does not apply to a dog that has not been usually kept in the corporation area for a period of 3 months immediately preceding the date of its release from the pound or is under 3 months of age.
- (3) The burden of proof as to whether:
 - (a) a person is the owner of a dog or a person authorised to act as the owner's agent lies on the person;
 - (b) a dog has not been usually kept in the corporation area for the period referred to in clause (2) lies on the person averring that fact; or
 - (c) the dog is under 3 months of age lies on the person averring the age of the dog.

47 Diseased dogs

- (1) Where a pound supervisor who takes custody of a dog that has been seized under these By-laws:
 - (a) receives advice from a veterinarian that the dog is, or is suspected of being, diseased; or
 - (b) notices or suspects that the dog is diseased,the pound supervisor must:
 - (c) isolate the dog from other dogs in the pound; and
 - (d) notify the Corporation of the dog's condition.
- (2) The Corporation must serve on the owner, if known, of a dog isolated under clause (1) written notice that the dog is or is suspected of being diseased and that the Corporation:
 - (a) requires the dog to be destroyed; or

- (b) requires the dog to undergo a course of treatment specified in the notice.
- (3) In a notice served under clause (2), the Corporation may require the owner of the dog to produce to the Corporation, within the time specified in the notice, a report prepared by a veterinarian or other person specified in the notice relating to:
 - (a) if the dog is not required to be destroyed – the disease of the dog; or
 - (b) all other dogs usually kept at the premises where the dog was kept.
- (4) A dog the subject of a notice under this by-law may be released from the pound in accordance with by-law 46 subject to the conditions the Corporation thinks fit.
- (5) A pound supervisor may destroy a dog in a pound if the dog is so diseased or injured that it is humane to destroy it.
- (6) The cost of treatment reasonably provided by a pound supervisor to a diseased dog, and to any other dog in the pound that was infected or was at risk of being infected by the diseased dog before the supervisor could reasonably isolate it, is a debt due and payable by the owner of the diseased dog to the Corporation.
- (7) The owner of a dog who contravenes or fails to comply with a requirement of a notice under clause (2) or a condition subject to which a dog is released under clause (4) commits an offence.

48 Sale or disposal of impounded dogs

- (1) A pound supervisor may arrange for the destruction of a dog delivered to a pound on the expiry of the number of days or hours determined by the Corporation.
- (2) A dog in a pound is not to be destroyed other than:
 - (a) by a veterinarian or another person who is, in the opinion of a pound supervisor, qualified to destroy the dog; and
 - (b) in a manner that is approved by the Australian Veterinary Association.
- (3) Subject to this Part, a pound supervisor may, instead of destroying a dog under clause (1):
 - (a) sell or dispose of the dog; or

- (b) pass the property in the dog to the RSPCA (N.T.) Incorporated and sell or dispose of the dog as agent for that association.
- (4) If a dog sold under clause (3) has not been sterilised, the Corporation may require that the dog is to be sterilised before it is released into the custody of the person who purchased it.
- (5) The cost of the sterilisation of the dog under clause (4) is a debt due and payable by the purchaser of the dog.

Division 9 Miscellaneous

49 Change of ownership of dog, &c.

- (1) A person who acquires ownership of a registered dog must, not later than 14 days after acquiring ownership, notify the registrar of:
 - (a) the person's name and address;
 - (b) the name of the registered owner; and
 - (c) the registration number of the dog.
- (2) The registered owner of a dog who changes his or her address must, not later than 14 days after the change, notify the registrar of the new address.
- (3) The registrar must, on being notified of a change of ownership under clause (1) or of an address under clause (2), amend the register accordingly.
- (4) A person who fails to comply with clause (1) or (2) commits an offence.

Penalty: \$200.

50 Dog races, &c.

- (1) The Corporation may, by notice in writing, exempt a person or body from by-law 33 or 34, or both, for the purposes of a dog race, dog trial, dog show, or while taking part in the activities of a dog obedience club or using a dog to drive cattle or stock on a road, or for any other purpose or event as the Corporation may determine.
- (2) An exemption under clause (1) may relate to a particular event or to a class of events and may be subject to the conditions the Corporation thinks fit.

Schedule 1

by-law 2(1)

COPY OF INSTRUMENT UNDER SECTION 128(1) OF LOCAL GOVERNMENT ACT

"NORTHERN TERRITORY OF AUSTRALIA

Local Government Act

EXTENSION OF ANIMAL CONTROL POWERS TO NHULUNBUY CORPORATION LIMITED

I, TIMOTHY DENNEY BALDWIN, the Minister for Local Government, in pursuance of section 128(1) of the *Local Government Act*, declare the Nhulunbuy Corporation Limited ACN 009 596 598 (a body which in my opinion is capable of performing relevant functions of a local government nature) to be a body to which section 128 of the Act applies in relation to the area, not being a council area, described in the Schedule.

Dated 27 October, 1997.

T.D. BALDWIN

Minister for Local Government

NOTE: On this declaration taking effect, the Nhulunbuy Corporation Limited has in the area described in the Schedule the functions that a municipal council has under the Act in relation to Animal Control and Animal Impounding, and has in relation to those functions the same by-law making and enforcing powers as a municipal council has in relation to its municipality.

SCHEDULE

All those parcels of land at Nhulunbuy in the Northern Territory of Australia containing a total area of 679.83 hectares more or less, being Northern Territory Portions 1192 and 1316 (which include the town centre, the main residential areas and the main industrial area) and being more particularly delineated on Survey Plans A708 and A952 lodged with the Surveyor General, Darwin."

Schedule 2 Determinations

by-law 5(4)

Column 1
Determinations

Column 2
Matters to be taken into account

Registration

(1) By-law 5(3)(c)

Application fee for

(a) registration

Fee may vary in respect of matters including:

(a) the date of the application;

(b) whether or not the owner presents a sterilisation certificate in relation to the dog;

(c) whether or not the applicant is a pensioner.

(b) renewal of registration

Fee may vary in respect of matters including:

(a) whether or not the owner presents or has, on making application for the initial registration, presented a sterilisation certificate in relation to the dog;

(b) whether or not the applicant is a pensioner.

(2) By-law 23(2)(d)

Manner in which premises on which the dog is usually kept are to be fenced.

Manner may vary by reference to the size or breed, or both, of the dog to be registered.

Licences

(1) By-law 5(3)(b)

Application fee for:

(a) a licence

Fee may vary in respect of matters including:

(a) the date of the application; or

(b) whether or not the applicant is a pensioner.

(b) a renewal of a licence.

Fee may vary in respect of matters including:

(a) the date of the application; or

(b) whether or not the applicant is a pensioner.

(2) By-law 25(3)

Manner in which premises are to be fenced.

Manner may vary by reference to the size or breed, or both, of the dogs to be kept on the premises.

(3) By-law 31

Number of:

(a) dogs; or

(b) dogs of a class of dog

that may be kept on premises without licensing the premises.

Determinations may be made under both paragraphs (a) and (b) and different determinations may be made in respect of different areas within the corporation area.

Dog Restriction Areas

By-law 29(2)

Prohibiting the keeping of:

- (a) all dogs;
- (b) more than a specified number of dogs; or
- (c) all or more than a specified number of dogs of a specified breed,

within a specified area of the corporation area.

Maintenance and Release Fees

By-law 46(1)

Daily fee to be paid in relation to the maintenance of a dog in a pound.

Fee to be paid on the release of a dog from a pound.

Destruction of Impounded Dogs

By-law 48(1)

Number of days or hours on the expiry of which the pound supervisor may arrange for the destruction of a dog.

Other Determinations

The purposes for which and the conditions on which the council will grant licences or registrations not otherwise specifically dealt with in these By-laws.

Schedule 3

by-law 17(2)(a)

Local Government Act

NHULUNBUY (ANIMAL CONTROL) BY-LAWS

NOTICE OF INFRINGEMENT

NHULUNBUY CORPORATION LIMITED

To:

(name of alleged offender)

of:

(address of alleged offender)

It is alleged that at _____ at _____ am/pm on _____ 20 _____,
(place) (time) (date)

you committed an offence as indicated below against the *Nhulunbuy (Animal Control) By-laws*:

By-law:

Offence:

(nature of offence)

Description of dog:

Identification device number of dog:

Amount: \$

In pursuance of by-law 17 of the *Nhulunbuy (Animal Control) By-Laws* you may pay to the Nhulunbuy Corporation Limited, instead of the penalty by which the offence is otherwise punishable, the amount shown above to the person at the address shown on the reverse of this notice of infringement, not later than 14 days after the date of service of this notice of infringement, in order to avoid prosecution.

Dated _____ 20 _____ .

Authorised person

THIS NOTICE MUST ACCOMPANY PAYMENT

**PLEASE SEE REVERSE FOR IMPORTANT INFORMATION
ABOUT THIS NOTICE**

(Reverse side of form)

If you wish to pay the amount shown on the front of this notice, complete the following and return it to the Nhulunbuy Corporation Limited as indicated below. On payment of the amount you will not be liable for a further penalty or costs in relation to this offence.

I, _____ of _____

tender the amount shown on the front of this notice of infringement, being assured that on payment of that amount no further action will be taken by the Nhulunbuy Corporation Limited for this offence.

Signed: _____ Date: _____ 20 ____ .

Payment of the amount in full must be made not later than 14 days after the date of service of this notice of infringement and must be accompanied by this notice. Payment may be made between 8.00 am and 4.15 pm Monday to Friday (except public holidays) to:

In person:

The Registrar
Nhulunbuy Corporation Limited Office
Endeavour Square
Nhulunbuy

By post:

The Town Administrator
Nhulunbuy Corporation Limited
PO Box 345
Nhulunbuy NT 0881

If you wish to be dealt with by a court in relation to this offence, do not pay the amount shown on the front of this notice but complete the following and return it to the Nhulunbuy Corporation Limited as indicated below. A summons may then be issued requiring you to appear before the Court of Summary Jurisdiction to be dealt with in relation to this offence.

I, _____ of _____

wish to be dealt with by a court in relation to this offence and, for that reason, have not paid the amount shown on the front of this notice.

Signed: _____ Date: _____ 20 ____ .

Return to:

In person:

The Registrar
Nhulunbuy Corporation Limited Office
Endeavour Square
Nhulunbuy

By post:

The Town Administrator
Nhulunbuy Corporation Limited
PO Box 345
Nhulunbuy NT 0881

If you do nothing in response to this notice, a summons may be issued requiring you to appear before the Court of Summary Jurisdiction to be dealt with in relation to this offence.

Schedule 4 Fixed penalties

by-law 17(2)(c)

| Column 1 By-law | Column 2 Amount |
|--------------------|--------------------|
| | \$ |
| 15 | 100.00 |
| 33 | 75.00 |
| 36 | 100.00 |
| 37(1)(a) | 250.00 |
| 37(1)(b) | 150.00 |
| 40 | 100.00 |
| 41 | 100.00 |

The common seal of the Nhulunbuy Corporation Limited is affixed in pursuance of a resolution of the Board of Directors authorising the seal to be affixed passed on 21 July 1998.

K. HANCOCK
Chairman of Directors

M. HINDLE
Town Administrator

ENDNOTES

1 KEY

Key to abbreviations

amd = amended
app = appendix
bl = by-law
ch = Chapter
cl = clause
div = Division
exp = expires/expired
f = forms
Gaz = Gazette
hdg = heading
ins = inserted
lt = long title
nc = not commenced

od = order
om = omitted
pt = Part
r = regulation/rule
rem = remainder
renum = renumbered
rep = repealed
s = section
sch = Schedule
sdiv = Subdivision
SL = Subordinate Legislation
sub = substituted

2 LIST OF LEGISLATION

Nhulunbuy (Animal Control) By-laws (SL No. 33, 1998)

| | |
|-----------|----------------|
| Notified | 26 August 1998 |
| Commenced | 26 August 1998 |

Amendment of Nhulunbuy (Animal Control) By-laws (SL No. 9, 2000)

| | |
|-----------|------------------|
| Notified | 10 February 2000 |
| Commenced | 10 February 2000 |

3 LIST OF AMENDMENTS

sch 3 sub No. 9, 2000