

NORTHERN TERRITORY OF AUSTRALIA

PALMERSTON (ANIMAL CONTROL) BY-LAWS

As in force at 3 April 1992

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 3 April 1992

PALMERSTON (ANIMAL CONTROL) BY-LAWS

By-laws under the *Local Government Act*

In making these By-laws the Council recognises:

- (a) the right of a person to keep a dog;
- (b) that the owner of a dog is responsible for the actions of the dog;
- (c) that dogs can be kept in good order and can be of benefit to the community;
- (d) the right of a person not to be caused a nuisance by another person's dog;
- (e) that a person should not provoke a dog with intent to cause a nuisance; and
- (f) that dogs can be exercised in public places or open areas while kept under effective control when other people are likely to be about.

Part 1 Preliminary

1 Citation

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

2 Interpretation

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

at large, in relation to a dog, means roaming freely.

attack, in relation to the actions of a dog, means the menacing of a person by a dog involving actual physical contact between the dog and the person and includes the injuring of a person by a dog.

Council means the Palmerston Town Council.

dog means an animal of the genus *Canis*.

identification device means a tag, disc or certificate issued by the Registrar to the owner of a dog after the dog is registered and includes a permanent electronic subcutaneous implant.

licence means a licence in respect of premises granted under these By-laws.

Municipality means the Municipality of Palmerston.

owner, in relation to a dog, means the person under whose control the dog is, or the occupier or, in the absence of the occupier, the owner of premises where the dog is ordinarily kept.

pound means a pound established under these By-laws.

premises includes land and buildings.

register means the register kept in accordance with by-law 5.

registered means registered under these By-laws.

registered owner means a person appearing in the register as the owner of a dog.

Registrar means the person appointed to be the Registrar under by-law 4.

Repealed Act has the same meaning as in the *Dog Act Repeal Act*.

threaten, 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 or another person or animal under that person's control and includes a reasonable apprehension that the dog may escape, or be released, from effective control to attack the person, the other person or animal.

veterinary surgeon means a registered veterinary surgeon within the meaning of the *Veterinary Surgeons Act*.

3 Application

Unless the contrary intention appears, these By-laws apply to all areas within the Municipality other than Lot 1137, Town of Palmerston.

Part 2 Registration of dogs, &c.

Division 1 Administration

4 Registrar

The Council may appoint an authorized person to be the Registrar for the purposes of these By-laws.

5 Register

- (1) The Registrar shall keep a register in accordance with Form 1 showing details of:
 - (a) all dogs registered under these By-laws;
 - (b) all licences granted under these By-laws; and
 - (c) all offences known to the Registrar against these By-laws or the Repealed Act:
 - (i) which the owner of a dog has been convicted; or
 - (ii) in relation to which the 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.
- (2) The Registrar shall keep, as part of the register, the register referred to in section 5(d) of the *Dog Act Repeal Act*.

Division 2 Registration

6 Application for registration

- (1) The owner of a dog may apply to the Registrar for the registration of the dog.
- (2) An application under clause (1) shall be in accordance with Form 2 accompanied by:
 - (a) the fee determined under clause (3);
 - (b) written evidence that the owner of the dog is the owner of the premises on which the dog is ordinarily kept or, if the owner of the dog is not the owner of the premises, that the owner of the premises, or the owner's agent, permits the dog to be kept on the premises; and
 - (c) such further relevant information as the Registrar requires.

- (3) The Council may, by resolution, determine the fee to be paid for the registration of a dog and the fee may vary having regard to matters including:
 - (a) whether the dog is sterilised;
 - (b) the manner in which the premises where the dog is ordinarily kept are fenced;
 - (c) the breed of the dog;
 - (d) whether the owner of the dog is a pensioner; and
 - (e) whether the area in which the dog is to be kept is of sufficient size for the breed of the dog.
- (4) The Council may, by resolution, require an application for the registration of a dog under this by-law to be accompanied by a photograph of the dog.
- (5) The Council may, by resolution, determine the type of identification device that an owner of a registered dog shall use to identify the dog.

7 Registration, &c.

- (1) The Registrar shall, not later than 14 days after receiving an application under by-law 6:
 - (a) register the dog, either conditionally or unconditionally; or
 - (b) refuse to register the dog.
- (2) The Registrar may refuse to register a dog:
 - (a) if the owner of the dog has been convicted of more than 2 offences against these By-laws or the Repealed Act within the period of 3 years before the date of the application for the registration of the dog; or
 - (b) if the dog has been impounded on more than 2 occasions under these By-laws or the Repealed Act within the period of 3 years before the date of the application for the registration of the dog.
- (3) The Registrar shall refuse to register a dog:
 - (a) if the owner of the dog fails to provide to the Registrar the written evidence referred to in by-law 6(2)(b); or

- (b) if the Council is satisfied that the dog is, or is of a breed of dog that is, destructive, dangerous, vicious or consistently the cause of nuisance to members of the public.
- (4) For the purposes of clause (2)(a), a reference to a conviction for an offence includes the payment of a sum specified by these By-laws in pursuance of a notice of infringement issued under these By-laws.
- (5) Where the Registrar refuses to register a dog under clause (1)(b), the Registrar shall serve on the applicant a statement in writing of the reasons for the Registrar's refusal to register the dog.

8 Period of registration

- (1) Subject to these By-laws, the registration of a dog remains in force for the period determined, by resolution, by the Council.
- (2) The period that the registration of a dog remains in force shall be:
 - (a) marked on the identification device issued when the dog is registered; or
 - (b) where the dog is issued with a permanent electronic subcutaneous implant, specified in the certificate issued in pursuance of clause (3).
- (3) Where a dog is issued with a permanent electronic subcutaneous implant, the Registrar shall issue to the owner of the dog or the owner's agent a certificate in accordance with Form 3 specifying the period for which the dog is registered.

Division 3 Licences

9 Application for licence

- (1) The occupier of premises who intends to keep more than the number of dogs determined under by-law 20(2) on the premises may apply to the Registrar for a licence in respect of the premises.
- (2) An application under clause (1) shall be in accordance with Form 4 accompanied by:
 - (a) the fee determined under clause (3);
 - (b) written evidence that the applicant is the owner of the premises or that the owner of the premises or the owner's agent permits the applicant to keep on the premises the number of dogs specified in the application; and

(c) such further relevant information as the Registrar requires.

(3) The Council may, by resolution, determine the fee to be paid for a licence.

10 Grant of licence, &c.

(1) The Registrar shall, not later than 14 days after receiving an application under by-law 9:

(a) grant a licence; or

(b) refuse to grant a licence,

in respect of the premises.

(2) The Registrar shall, in considering an application under this by-law take into account any matter that is, in the Registrar's opinion, relevant and in particular:

(a) the facilities available at the premises for controlling dogs;

(b) the number of dogs to be kept at the premises; and

(c) the likely impact on the residents in the locality of the premises if the licence is granted.

(3) A licence shall be in accordance with Form 5.

(4) A licence shall specify the number of dogs that may be kept on the premises under the licence.

(5) The Registrar shall not grant a licence if the applicant fails to provide the written evidence referred to in by-law 9(2)(b).

(6) Where the Registrar refuses to grant a licence under clause (1)(b), the Registrar shall, not later than 28 days after receiving the application under by-law 9, serve on the applicant a statement in writing of the reasons for the Registrar's refusal to grant the licence.

(7) The Council may, by resolution, determine the period during which a licence remains in force.

11 Cancellation or suspension of licence by request

(1) The Registrar may, on application in writing by the holder of a licence, cancel the licence or suspend the licence for the period specified in the application.

- (2) The cancellation or suspension of a licence under clause (1) has effect on and from the receipt of the application by the Registrar.

12 Cancellation or suspension of registration or licence otherwise than by request

- (1) The Registrar may, by notice in writing served on the registered owner of a dog, require the registered owner to show cause why the registration of the dog should not be:
- (a) cancelled; or
 - (b) suspended for the period specified in the notice.
- (2) The Registrar may, not less than 14 days after the date of service of the notice referred to in clause (1), by a second notice in writing served on the registered owner:
- (a) if the first notice was a notice referred to in clause (1)(a) – cancel the registration of the dog; or
 - (b) if the first notice was a notice referred to in clause (1)(b) – suspend the registration of the dog for the period specified in the notice, being a period not longer than the period specified in the first notice.
- (3) The Registrar may, by notice in writing served on the holder of a licence, require the holder to show cause why the licence should not be:
- (a) cancelled; or
 - (b) suspended for the period specified in the notice.
- (4) The Registrar may, not less than 14 days after the date of service of the notice referred to in clause (3), by a second notice in writing served on the holder of the licence:
- (a) if the first notice was a notice referred to in clause (3)(a) – cancel the licence; or
 - (b) if the first notice was a notice referred to in clause (3)(b) – suspend the licence for a period, being a period not longer than the period specified in the first notice.
- (5) A notice served under clause (2) or (4) has effect at the expiration of 21 days after the date of service of the notice.

Part 3 Control of dogs

Division 1 Offences

13 Dogs at large

The owner of a dog that is at large is guilty of an offence.

14 Dogs attacking or threatening persons, animals or property

The owner of a dog that, without provocation, attacks or threatens an animal, a person or a person's property is guilty of an offence.

15 Dogs causing nuisance by barking

The owner of a dog that causes a nuisance by barking is guilty of an offence.

16 Enticement

A person who entices a dog in an attempt to cause it to become a nuisance is guilty of an offence.

17 Unregistered dogs

- (1) Subject to this by-law, a person who ordinarily keeps a dog that is not registered within the Municipality is guilty of an offence.
- (2) Clause (1) does not apply to:
 - (a) the Registrar;
 - (b) the manager of a pound keeping a dog in the pound in pursuance of these By-laws;
 - (c) the Royal Society for the Prevention of Cruelty to Animals (N.T.) Incorporated; or
 - (d) a veterinary surgeon keeping a dog for the purposes of treatment.
- (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 ordinarily kept in the Municipality for a period of 3 months before the date of the alleged offence.

18 Failure to observe conditions of registration

A person who contravenes or fails to comply with a condition to which the registration of a dog is subject is guilty of an offence.

19 Removal of identification device

A person, other than the owner of a dog, who removes an identification device from the dog is guilty of an offence.

20 Failure to possess licence

- (1) The occupier of premises who ordinarily keeps at the premises more than the number of dogs determined under clause (2) is guilty of an offence unless a licence, which is in force, has been granted in respect of the premises.
- (2) The Council may, by resolution, determine the number of dogs that may ordinarily be kept on premises without the premises being licensed.

21 False information

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

Division 2 Pounds

22 Establishment of pounds

- (1) The Council shall establish a pound.
- (2) The Council shall appoint a person to be the manager of a pound.
- (3) A pound shall remain open on the days and between the hours as the Council, by resolution, determines.

23 Notice of impounding

- (1) Where a dog is delivered to a pound and it is apparent to the manager of the pound that the dog is registered, the manager shall, as soon as possible, place a notice in the Council office and the nearest police station giving details of the impounding of the dog.
- (2) Where a dog that is registered outside the Municipality is delivered to a pound, the manager of the pound shall, if the address of the owner of the dog is apparent to the manager of the pound, serve a notice on the owner that the dog has been impounded.

- (3) Except as provided in clause (1) or (2) the manager of a pound is not required to give notice of the impounding of a dog.

24 Release of dogs from pound

- (1) A dog that is delivered to a pound shall not be released from the pound:
- (a) subject to clause (3), unless it is, at the time of release, registered;
 - (b) other than to the owner of the dog or a person who is authorised in writing by the owner to act as the agent of the owner; and
 - (c) unless there is paid to the manager of the pound the maintenance and release fees in relation to the dog determined under clause (2).
- (2) The Council may, by resolution, determine the daily fee to be paid in relation to the maintenance of a dog in a pound and the fee to be paid for the release of a dog from a pound.
- (3) Clause (1)(a) does not apply if the dog has not been ordinarily kept within the Municipality during the period of 3 consecutive months immediately preceding the date of the release of the dog from the pound.
- (4) The burden of proof:
- (a) as to whether a person is the owner of a dog or the owner's agent; or
 - (b) in relation to a matter referred to in clause 3,
- is on the owner of the dog or the owner's agent.

25 Diseased dogs

- (1) Where a veterinary surgeon or the Registrar, with the assistance of a veterinary surgeon, if available, examines a dog in a pound and finds it to be diseased, he or she shall notify the manager of the pound of that fact.
- (2) The manager of the pound, on being notified under clause (1):
- (a) shall:
 - (i) immediately isolate the dog from other dogs in the pound; and

- (ii) by notice in writing served on the owner of the diseased dog, if known, advise the owner that the dog is diseased and should be destroyed or undergo a course of treatment as specified in the notice; and
- (b) may require the owner to produce to the manager, within the time specified in the notice, a report prepared by a veterinary surgeon or person specified in the notice relating to:
 - (i) the diseased dog; and
 - (ii) all other dogs ordinarily kept at the premises at which the diseased dog is ordinarily kept.
- (3) A dog the subject of a notice under this by-law may be released from the pound in accordance with by-law 24 subject to such conditions, if any, as the Registrar thinks fit.
- (4) The owner of a dog shall not contravene or fail to comply with a requirement of a notice served on the owner under clause (2) or a condition subject to which the dog is released under clause (3).
- (5) The cost of treatment reasonably provided by the manager of a pound 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 manager could reasonably isolate it, is a debt due and payable by the owner of the diseased dog to the Council.

26 Destruction of impounded dogs

- (1) Subject to these By-laws, the manager of a pound may cause a dog in the pound to be destroyed.
- (2) Subject to clause (3), the manager of a pound shall not destroy a dog in the pound until after the expiration of the number of days or hours determined by the Council by resolution.
- (3) The manager of a pound may cause a dog in the pound to be destroyed:
 - (a) if the dog is so diseased or injured that it is humane to destroy it; or
 - (b) with the approval of a veterinary surgeon, having regard to the diseased or injured state of the dog.

Part 4 Miscellaneous**27 Seizure, &c., of dogs**

- (1) An authorized person may:
 - (a) seize:
 - (i) an apparently diseased, injured, savage, destructive or stray dog; or
 - (ii) a dog that is at large; and
 - (b) where, in the opinion of an authorized person it is necessary to do so, destroy a diseased, injured, savage or destructive dog.
- (2) A dog seized under clause (1)(a) that is not destroyed under clause (1)(b) shall be delivered to a pound as soon as practicable after it is seized.

28 Change of ownership of dog

- (1) The registered owner of a dog who sells or disposes of the dog to another person shall, not later than 14 days after the sale or disposal of the dog, notify the Registrar in writing of:
 - (a) the name and address of the new owner of the dog; and
 - (b) the address of the premises where the dog will be ordinarily kept,and the Registrar shall amend the register accordingly.
- (2) A registered owner of a dog who contravenes or fails to comply with clause (1) is guilty of an offence.

29 Variation of fees, &c.

The power of the Council to determine a fee under these By-laws includes the power to make provision for a variation of the fee, the granting of rebates and the method of payment of a fee in such circumstances as are specified in the resolution determining the fee.

30 Notice of resolutions

Notice of a resolution made under these By-laws shall be published, not later than 21 days after its making, in a newspaper circulating in the Municipality.

31 Penalties

A person who contravenes or fails to comply with these By-laws is guilty of an offence and is liable on conviction to a penalty not exceeding \$2,000 and in addition, to a penalty not exceeding \$100 for each day during which the offence continues.

32 Fixed penalties for breach of by-laws

- (1) Notwithstanding by-law 31, a person who is alleged to have contravened or failed to comply with a by-law specified in column 1 of Schedule 2 (a general description of which is opposite in column 2 of that Schedule), and on whom a notice of infringement is served, may pay to the Council, as an alternative to prosecution, the sum specified by this by-law in lieu of the penalty which may otherwise be imposed under by-law 31.
- (2) For the purpose of this by-law:
 - (a) the sum specified by this by-law in respect of:
 - (i) a contravention of a failure to comply with a by-law specified in column 1 of Schedule 2 (a general description of which is opposite in column 2 of that Schedule) is the sum specified opposite in column 3 of that Schedule; and
 - (ii) a second or subsequent contravention of or failure to comply with a by-law specified in column 1 of Schedule 2 is the sum specified opposite in column 4 of that Schedule;
 - (b) a notice of infringement shall be in accordance with Form 6;
 - (c) a notice of infringement may be served by an authorized person;
 - (d) the sum specified by this by-law may be paid to the clerk of the Council or to the person from time to time performing or carrying out the duties of the cashier of the Council; and
 - (e) in order to avoid prosecution, the sum specified by this by-law shall be paid not later than 14 days after the date of service of the notice of infringement on the person.
- (3) For the purposes of clause (2)(a)(ii), a second or subsequent contravention of or failure to comply with a by-law, means that, within the period of 3 years before the date of the issue of a notice of infringement, the person on whom the notice of infringement is

served was convicted of an offence against the by-law specified in the notice of infringement or had paid a sum on being served with a notice of infringement alleging a contravention of or failure to comply with the by-law specified in the notice of infringement.

Schedule 1

FORM 1

by-law 5

Local Government Act

Palmerston (Animal Control) By-laws

REGISTER

PART 1 – DOGS

Date of application:

Name of owner:

Address of owner:

Dog – Breed:

Age:

Period of registration:

Fee:

Offences:

PART 2 – LICENCES

Date of application:

Name of owner:

Address:

Address of premises to be licensed:

Type of fencing:

Number of dogs permitted to be kept at premises:

Period of licence:

Fee:

Offences:

FORM 2

by-law 6

Local Government Act

Palmerston (Animal Control) By-laws

APPLICATION FOR REGISTRATION OF DOG

Name of owner:

Address:

Dog – Breed:

Age:

Fee:

Dated

19 .

(Signature of applicant)

FORM 3

by-law 8(3)

Local Government Act
Palmerston (Animal Control) By-laws
CERTIFICATE OF REGISTRATION

Name of owner:

Address:

Dog – Breed:

Age:

Registered to / / 19 .

Conditions:

Dated 19 .

Registrar

FORM 5

by-law 10

Local Government Act
Palmerston (Animal Control) By-laws

LICENCE

Name of owner:

Address:

Address of premises:

Number of dogs permitted to be kept at premises:

Licensed to / / 19 .

Dated 19 .

Registrar

FORM 6

by-law 32

Local Government Act

Palmerston (Animal Control) By-laws

NOTICE OF INFRINGEMENT

To:

of:

It is alleged that at _____ am/pm on
19 , at

Palmerston you committed an offence indicated by an "X" in the Schedule below.

In pursuance of by-law 32 of the *Palmerston (Animal Control) By-Laws* you may pay to the Council, instead of the penalty by which the offence is otherwise punishable, the amount shown below to the person at the address shown on the reverse of this notice, not later than 14 days after the date of service of this notice of infringement, in order to avoid prosecution.

Dated _____ 19 .

Authorized person

THIS NOTICE MUST ACCOMPANY PAYMENT OF \$ _____ .

SCHEDULE

Dog at large	Enticing dog to create nuisance
Unregistered dog	Breach of condition of registration
Unlicensed premises	Other (include offence alleged to have been committed)
Dog causing nuisance by barking	
No identification device	
Dog threatening/attacking person	
Dog threatening/attacking person's property	
Dog threatening/attacking animal	

(Back of form)

If you do not wish the offence alleged on the front of this notice of infringement to be dealt with by the Court of Summary Jurisdiction you should read and complete the following:

I, _____ of _____, tender the amount shown on the front of this notice, being assured that on payment of that amount no further action will be taken by the Council for this offence.

Signed: _____ Date: _____ 19 ____ .

Payment of the amount in full must be made not later than 14 days after the date of service of this notice and must be accompanied by this notice. Payment may be made between 8.00 am and 4.00 pm Monday to Friday (except public holidays):

In person - To the Cashier, Palmerston Town Council, Civic Plaza Building, 2 Chung Wah Terrace, Palmerston.

By post - To the Town Clerk, Palmerston Town Council, Post Office Box 1, Palmerston, NT 0831.

On payment of the penalty you will not be liable for any further penalty or costs in this matter.

If you do wish the offence alleged on the front of this notice of infringement to be dealt with by the Court of Summary Jurisdiction you need not take any further action in respect of this notice and proceedings will issue against you in due course.

Schedule 2

by-law 32

FIXED PENALTIES

Column 1	Column 2	Column 3	Column 4
By-law	General Description of Offence	Amount (first offence)	Amount (second or subsequent offence)
		\$	\$
13	Dog at large	20	40
14	Dog threatening person, animal or property	50	100
14	Dog attacking another person's property or animal	100	200
14	Dog attacking person	500	1,000
15	Dog causes a nuisance by barking	20	40
16	Enticing a dog	50	100
17	Keeping an unregistered dog	30	60
18	Failure to observe conditions	20	40
19	Removal of an identification device	200	400
20	Failure to possess a licence	50	100
21	Providing false information	300	600
25	Failure to comply with a notice	30	100

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

Palmerston (Animal Control) By-laws (SL No. 16, 1992)

Notified 3 April 1992

Commenced 3 April 1992