

**NORTHERN TERRITORY OF AUSTRALIA**

**ALICE SPRINGS (ANIMAL CONTROL) BY-LAWS**

As in force at 14 December 2005

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# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 14 December 2005

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## ALICE SPRINGS (ANIMAL CONTROL) BY-LAWS

### By-laws under the *Local Government Act*

#### Part 1 Preliminary

##### 1 Citation

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

##### 2 Purpose

The purpose of these By-laws is to provide for the keeping of animals within the Municipality 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:

**agent**, in relation to the owner of an animal, means a person authorised in writing by the owner to be the agent of the owner.

**animal** means all animals kept on private premises in the Municipality and includes cats, dogs, bees, birds and reptiles.

**animal refuge** means an animal refuge established under by-law 44.

**animal trader** means a person who buys, sells or gives away animals in the course of business.

**approved** means approved by the Council by resolution.

**approved animal trap** means a device designed to capture an animal which has the approval of the Royal Society for the Prevention of Cruelty to Animals (N.T.) Incorporated.

**approved certificate** means:

- (a) a certificate, signed by a veterinarian surgeon who carries out a sterilisation procedure on an animal, that the animal has been sterilised; or
- (b) a statutory declaration that an animal has been sterilised.

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

**cat breeder's licence** means a licence granted under these By-laws authorising the breeding of cats.

**Council** means the Alice Springs Town Council.

**dog exercise area** means a dog exercise area declared under by-law 24.

**dog restriction area** means a dog restriction area declared under by-law 24.

**effective control**, in relation to a dog, means the dog is:

- (a) restrained by a leash, cord, chain or similar device, not longer than 2.5 m in length, and held by a person who has attained the age of 10 years and who is competent to restrain the dog;
- (b) enclosed in a vehicle;
- (c) in a dog exercise area in accordance with the conditions, if any, to which use of the area is subject; or
- (d) controlled by some other means.

**guide dog** means a dog, trained by an approved guide dog association, used as a guide by a person who is wholly or partially blind.

**hearing dog** means a dog, certified as a hearing dog by an approved hearing dog association, used as an aid by a person who is wholly or partially deaf.

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

**licence** means a licence granted under these By-laws.

**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 a person or animal and includes a reasonable apprehension that the dog may escape, or be released from, effective control to attack a person or animal.

**Municipality** means the Municipality of Alice Springs.

**pound** means a pound established under by-law 44.

**pound manager** means the person appointed under by-law 44 to be the manager of a pound or animal refuge.

**premises** includes land and buildings.

**registration** means registration under these By-laws.

**registered owner**, in relation to an animal, means the person recorded in the register as the owner of the animal.

**register** means the register kept in accordance with by-law 9.

**Registrar** means the Registrar appointed under by-law 7.

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

**subcutaneous implant** means an electronic device that can be implanted into the tissue of an animal for the purpose of identification.

**therapy dog** means a dog, certified by an approved training institution, that is used for purposes of therapy by a person who is wholly or partially incapacitated.

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

- (2) Unless the contrary intention appears, a reference in these By-laws to the owner, other than to the registered owner, of an animal at a particular time is a reference to the person who at that time was responsible for the animal.
- (3) A reference in these By-laws to an animal at large is a reference to an animal, other than an animal in the custody of an authorized person or in a pound, that is in a place, other than a place owned or occupied by its owner, and not under effective control.

- (4) A reference in these By-laws to a mark is a reference to an approved mark for the purpose of distinguishing a sterilised animal from an animal that is not sterilised.
- (5) For the purposes of these By-laws, the burden of proof as to whether a dog is under effective control is on the owner of the dog.
- (6) A reference in these By-laws to the seizure of an animal includes the capture of an animal by means of an approved animal trap.

## **5 Application**

- (1) Unless the contrary intention appears, these By-laws apply to all areas within the Municipality.
- (2) By-laws 26 and 27 do not apply to or in relation to a protected animal or specially protected animal within the meaning of the *Territory Parks and Wildlife Conservation Act*.

## **6 Registration by another council**

- (1) In this By-law ***council*** means a council or other body that has local government functions for or in relation to animal control under a law in force in a State or Territory of the Commonwealth.
- (2) If an animal is registered (however described) by another council:
  - (a) the registration of the animal is to be taken to be registration of the animal under By-laws until and including the date when the animal's registration by the other council would have expired; and
  - (b) a subcutaneous implant that was issued by the other council to identify the animal and implanted in the animal is to be taken to be an identification device issued to the owner of the animal and implanted in the animal under by-law 13.all licences granted by the Council; and
- (3) These By-laws apply, with the necessary changes, to an animal referred to in clause (2) as if the animal registered under these by-laws.
- (4) The burden of proving that an animal is registered by another council lies on the owner of the animal.



## **Part 2 Administration**

### **7 Registrar**

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

### **8 Delegation by council**

- (1) The Council hereby delegates to the Registrar its powers and functions under these By-laws other than this power of delegation.
- (2) A power or function delegated under this by-law, when exercised or performed by the Registrar, shall be deemed to have been exercised or performed by the Council.
- (3) A delegation under this by-law does not prevent the exercise of a power or the performance of a function by the Council.

### **9 Register**

- (1) The Registrar shall keep a register, in the form determined by the Council under clause (4), containing details of:
  - (a) all animals registered by the Council;
  - (b) all licences granted by the Council; and
  - (c) all offences against these By-laws or the Repealed Act:
    - (i) of which the owner of an animal has been convicted; or
    - (ii) in relation to which the owner of an animal 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*.
- (3) A certificate or extract from the register concerning an animal or the owner of an animal, or a licence or the holder of a licence, purporting to be signed by the Registrar, is evidence of the matters specified in the certificate or extract.
- (4) The Council may, by resolution:
  - (a) determine the form of the register; and
  - (b) approve the forms, certificates or notices required for the purposes of these By-laws.

## **Part 3 Registration and licences**

### **Division 1 Registration of animals**

#### **10 Resolutions relating to registration**

- (1) The Council may, by resolution, determine, in respect of the registration of an animal under these By-laws:
  - (a) the fees to be charged for registration;
  - (b) the conditions of or for registration;
  - (c) the period during which registration will remain in force;
  - (d) the form and type of identification device to be issued on registration; and
  - (e) the method of sterilisation and marking of animals.
- (2) Without limiting the generality of clause (1), a resolution under that clause may include conditions relating to the keeping of specified breeds of dogs.
- (3) Without limiting the generality of clause (1), a resolution under that clause may determine, as a condition for registration of an animal, that the owner of the animal not have been convicted of more than a specified number of offences against these By-laws or the Repealed Act or more than a specified number of such offences during a specified period.
- (4) For the purposes of clause (3), 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.

#### **11 Application for registration**

- (1) The owner of a dog that is over the age of 6 months shall apply to the Council for the registration of the dog.
- (2) The owner of a cat that has been sterilised may apply to the council for the registration of the cat.
- (2A) Where the owner of a cat that is not sterilised is the holder of a cat breeder's licence, the owner may apply to the council for the registration of the cat.

- (3) An application under clause (1), (2) or (2A) shall be in the approved form accompanied by:
  - (a) the fee determined by the Council under these By-laws;
  - (c) such other information as the Council considers relevant and requires to be produced.

## **12 Registration**

- (1) The Council shall, not later than 28 days after receiving an application under by-law 11:
  - (a) register the animal; or
  - (b) refuse to register the animal.
- (2) The registration of an animal under subclause (1) may be subject to such conditions, if any, as the Council thinks fit.
- (3) In determining whether to register an animal, or the conditions, if any, to impose, the Council may take into consideration:
  - (a) the nature or location of the premises where the animal is ordinarily kept;
  - (b) the manner in which the premises in which the animal is ordinarily kept are fenced; and
  - (c) the breed of the animal.

## **13 Identification device**

- (1) The Registrar shall issue to the owner of an animal registered under these By-laws an identification device.
- (2) Where the identification device issued to the owner of an animal under clause (1) is a tag, the owner, unless exempted by the Registrar, shall:
  - (a) affix the tag to a collar on the animal; and
  - (b) ensure that the tag remains displayed on the collar on the animal while the registration of the animal remains in force.
- (3) Where the identification device issued to the owner of an animal under clause (1) is a subcutaneous implant, the owner shall cause the animal to be implanted with the device by a veterinarian not later than 14 days after the date the animal was registered.

**14 Period of registration**

The registration of an animal, unless otherwise revoked, remains in force for the period determined by the Council under these By-laws.

**15 Refusal to register dog**

- (1) The Council may refuse to register a dog:
  - (a) if the owner of the animal does not meet the requirements of the condition for registration referred to in by-law 10(3);
  - (b) if, within the 3 years before the date of the application for registration of the dog, the dog has been impounded under these By-laws or the Repealed Act on more than 2 occasions;  
or
  - (c) if the premises on which the dog is ordinarily to be kept do not comply with a condition relating to the manner in which premises are to be fenced.
- (2) The Council shall refuse to register a dog:
  - (a) if the dog is ordinarily kept on premises within a dog restriction area and the keeping of the dog in that area is prohibited;
  - (b) if the owner of the dog fails to comply with by-law 11(3)(c);
  - (c) if the Council is satisfied that the dog is destructive, dangerous, vicious or consistently the cause of nuisance to members of the public; or
  - (d) if the owner of the dog has not, if so required by the Council, completed an approved dog obedience course or an approved dog training course.

**16 Refusal to register cat**

- (1) The Council may refuse to register a cat if the owner of the cat does not meet the requirements of the condition for registration referred to in by-law 10(3).
- (2) The Council shall refuse to register a cat:
  - (a) if the owner of the cat fails to comply with by-law 11(3)(c); or
  - (b) if the Council is satisfied that the cat is consistently the cause of nuisance to members of the public.

**17 Notice of refusal to register animal**

Where the Council refuses to register an animal under by-law 12(1)(b), it shall, not later than 28 days after refusing the application, serve on the applicant a notice in writing setting out the reasons for its refusal.

**18 Revocation, &c., of registration**

- (1) The Council may, where it is satisfied that the owner of a registered animal has contravened or failed to comply with these By-laws:
  - (a) revoke the registration of the animal; or
  - (b) impose or vary the conditions to which the registration of the animal is subject.
- (2) Where the Council, under clause (1), revokes the registration of an animal or imposes or varies the conditions to which the registration is subject, it shall notify the owner of the animal and the revocation or conditions to which the registration is to be subject take effect from the date of that notification.

**Division 2 Licensing of premises or person**

**19 Resolutions relating to licensing**

- (1) The Council may, by resolution, determine, in relation to the licensing of premises or a person under these By-laws:
  - (a) the fees to be charged for a licence;
  - (b) the conditions of or for a licence;
  - (c) the period during which a licence will remain in force; and
  - (d) the categories of licences.
- (2) In determining under clause (1) the fees to be charged for a licence, the Council may take into account whether the owner of an animal to be kept on the premises is:
  - (a) a pensioner; or
  - (b) a member of an approved kennel club.
- (3) Without limiting the generality of clause (1), a resolution under that clause may determine, as a condition for a licence, that the owner of an animal kept or to be kept on the premises, or the owner or occupier of the premises, shall not have been convicted of more

than a specified number of offences against these By-laws or the Repealed Act or more than a specified number of such offences during a specified period.

- (4) For the purposes of clause (3), 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.

## **20 Application for licence**

- (1) Where more than 2 dogs or more than 2 cats are, or are to be, kept on premises, the owner or occupier of the premises shall apply to the Council for a licence in respect of the premises.
- (1A) A person who keeps a cat which he or she intends to permit to breed shall apply to the council for a cat breeder's licence.
- (2) An application under clause (1) or (1A) shall be in the approved form accompanied by:
- (a) the fee determined by the Council under these By-laws;
  - (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:
    - (i) the number of animals specified in the application to be kept on the premises; or
    - (ii) the breeding of cats on the premises; and
  - (c) such other information as the Council considers relevant and requires to be produced.

## **21 Licences**

- (1) The Council shall, not later than 28 days after receiving an application under by-law 20:
- (a) grant a licence; or
  - (b) refuse to grant a licence,
- in respect of the premises or a person.
- (2) A licence granted under clause (1) may be subject to such conditions, if any, as the Council thinks fit.

- (3) In determining whether to grant a licence, or the conditions, if any, to impose on a licence, the Council may take into consideration:
  - (a) the nature or location of the premises;
  - (b) the manner in which the premises are fenced;
  - (c) the number of animals to be kept on the premises;
  - (d) the breed of animals to be kept on the premises;
  - (e) the facilities at the premises;
  - (f) the likely effect, if the licence is granted, on residents living near to the premises; and
  - (g) the category of licence applied for.
- (4) A licence remains in force for the period endorsed on the licence.
- (5) The Council may refuse to grant a licence if:
  - (a) the owner of an animal kept or to be kept on the premises, or the owner or occupier of the premises, does not meet the requirements of the condition for a licence referred to in by-law 19(3); or
  - (b) within the period of 3 years before the date of the application for the licence, an animal kept or to be kept on the premises, or owned by the owner or occupier of the premises, has been impounded under these By-laws or the Repealed Act on more than 2 occasions.
- (6) The Council shall refuse to grant a licence if:
  - (a) subject to clause 5(a), the occupier of the premises has not complied with the conditions determined by the Council for the grant of a licence;
  - (b) the premises do not comply with a condition relating to the manner in which premises are to be fenced; or
  - (c) the applicant fails to comply with by-law 20(2)(b) or (c).
- (7) Where the Council refuses to grant a licence under clause (1)(b), it shall, not later than 28 days after refusing the application, serve on the applicant a notice in writing of the reasons for its refusal.

### **Division 3            Cancellation and suspension of registration and licences**

#### **22            Cancellation or suspension of registration or licence by request**

- (1) The Council may, on the application in writing by a registered owner or the holder of a licence, by notice in writing served on the registered owner or holder:
  - (a) cancel the registration or licence; or
  - (b) in the case of a licence, suspend the licence for the period specified in the application.
- (2) The cancellation of a registration or licence, or the suspension of a licence, under clause (1) has effect from the date the application under that clause is received by the Council.

#### **23            Cancellation or suspension of registration or licence otherwise than by request**

- (1) The Council may, by notice in writing served on a registered owner or the holder of a licence, require the registered owner or holder to show cause why:
  - (a) in the case of the registered owner, the registration of the animal should not be:
    - (i) cancelled; or
    - (ii) made subject to the conditions specified in the notice; or
  - (b) in the case of the holder of the licence, the licence should not be:
    - (i) cancelled;
    - (ii) suspended for the period specified in the notice; or
    - (iii) made subject to the conditions specified in the notice.
- (2) The Council shall, not earlier than 28 days after service of the notice referred to in clause (1), and after considering any matter that the registered owner or the holder of the licence may have put to the Council, by a second notice in writing served on the owner or holder
  - (a) if the first notice was a notice referred to in clause (1)(a)(i) or (b)(i), cancel the registration or licence;



- (b) if the first notice was a notice referred to in clause (1)(b)(ii), suspend the licence for not longer than the period specified in the first notice; or
  - (c) if the first notice was a notice referred to in clause (1)(a)(ii) or (b)(iii), notify the registered owner or holder of the licence of the conditions to which the licence is to be subject and the period during which the conditions will apply.
- (3) Where the Council serves a notice under clause (2), the cancellation or suspension of, or the imposition of the conditions on, the registration or licence, as the case may be, takes effect 28 days after the service of the notice.

## **Part 4                    Dog restriction areas and dog exercise areas**

### **24                    Dog restriction areas and dog exercise areas**

- (1) Subject to by-law 25, the Council may, by resolution, declare an area within the Municipality to be a dog restriction area and may prohibit 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,
- in that area.
- (2) The declaration of a dog restriction area under clause (1) does not affect:
- (a) the right of a person to keep a dog in the dog restriction area that, at the date of the declaration, was owned by the person and ordinarily kept on premises in the dog restriction area; or
  - (b) a requirement that a dog kept in a dog restriction area be registered.
- (3) The Council may, by resolution, declare an area within the Municipality to be a dog exercise area and may make rules relating to the exercising of dogs in the area.

**25            Notice of dog restriction areas and dog exercise areas**

The Council shall not declare an area to be a dog restriction area or a dog exercise area unless:

- (a) it has published in a newspaper circulating in the Municipality:
  - (i) notice of the proposed dog restriction area or dog exercise area; and
  - (ii) the means by which members of the public can comment on the proposal; and
- (b) not less than 28 days has elapsed since the publication of that notice.

**Part 5            Control of animals**

**Division 1        Offences**

**26            Certain animals to be registered**

- (1) A person shall not keep in the Municipality a dog that is over the age of 6 months unless it is registered.
- (2) Clause (1) does not apply to:
  - (a) the Registrar or a pound manager keeping a dog in a pound or animal refuge;
  - (b) a person who is boarding a dog for its owner;
  - (c) the Royal Society for the Prevention of Cruelty to Animals (N.T.) Incorporated keeping a dog at an animal refuge maintained by it;
  - (d) a veterinarian keeping a dog for treatment; or
  - (e) an animal trader keeping a dog in the course of the animal trader's business.
- (3) For the purposes of these By-laws, a dog or cat that is at large in the Municipality and not identified by an identification device shall be deemed to be unregistered.
- (4) For the purposes of these By-laws, a cat at large in the Municipality and not marked in the approved manner shall be deemed not to be sterilised.

(5) An averment in a complaint that at a specified time:

- (a) an animal was not registered; or
- (b) a cat was not sterilised,

is prima facie evidence of that fact.

## **27            Certain premises and persons to be licensed**

(1) The occupier of premises shall not permit more than:

- (a) 2 dogs; or
- (b) 2 cats,

that are over the age of 6 months to be ordinarily kept on the premises for a period longer than 3 months unless the premises are licensed.

(2) A person who keeps a cat which breeds is guilty of an offence unless the person is the holder of a cat breeder's licence.

## **28            Conditions of registration or licence to be observed**

A person shall not contravene or fail to comply with a condition to which the registration of an animal or a licence is subject.

## **29            Illegal use of identification device**

A person shall not:

- (a) without reasonable cause, remove an identification device from a registered animal; or
- (b) place an identification device on an animal that is not the animal in respect of which the identification device was issued.

## **30            Sterilisation marks and certificates**

(1) A person shall not mark with an approved mark an animal that is not sterilised.

(2) A person shall not, on the sale or disposal of an animal to another person:

- (a) fail, where the animal has been sterilised, to supply; or
- (b) supply, where the animal has not been sterilised,

an approved certificate to that other person.

**31            Dogs and cats in places with other animals**

- (1) Subject to clause (2), the owner of a dog or cat shall not permit the dog or cat to be in a field, paddock, yard or other place in which another animal is confined.
- (2) Clause (1) does not apply:
  - (a) where the dog or cat is in the field, paddock, yard or other place with the consent of the owner of the other animal; or
  - (b) where the field, paddock, yard or other place is:
    - (i) owned by the owner of the dog or cat; or
    - (ii) a pound or animal refuge.

**32            Dogs attacking or menacing persons or animals**

- (1) The owner of a dog that attacks or menaces a person or animal is guilty of an offence.
- (2) A person who invites, encourages or provokes a dog to attack or menace a person or animal is guilty of an offence.
- (3) It is a defence to a prosecution for an offence against clause (1) if the owner of the dog proves that:
  - (a) the person attacked or menaced had, without the owner's permission, invited, encouraged or provoked the dog to attack or menace the person;
  - (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 the boundary of the premises to the door of the premises closest to that boundary or from that door to the boundary of the premises.

**33            Dogs running at or chasing vehicles**

The owner of a dog that runs at or chases a vehicle, including a bicycle, is guilty of an offence.

**34            Animals at large**

- (1) The owner of an animal that is at large is guilty of an offence.
- (2) For the purposes of this by-law, *animal* does not include a cat.

**34A          Cat repeatedly at large**

The owner of a cat that is repeatedly in a place other than a place owned or occupied by its owner is guilty of an offence.

**35            Keeping of dogs in dog restriction area**

Subject to by-law 24(2), a person shall not keep a dog in a dog restriction area where the keeping of the dog is prohibited.

**36            Enticement**

- (1) A person shall not entice or induce an animal to enter a place in which it will be at large.
- (2) Clause (1) does not apply to the seizure of an animal by means of an approved animal trap set by, or on behalf of, an authorised person.

**37            Animal causing nuisance**

- (1) The owner of an animal shall not permit the animal, either by itself, or in concert with other animals, to be a nuisance.
- (2) For the purposes of this by-law, an animal is a nuisance if it is injurious or dangerous to the health of the community or of an individual or behaves repeatedly in a manner contrary to the general interest of the community or of an individual.
- (3) Without limiting the generality of clause (2), a dog is a nuisance if it
  - (a) repeatedly creates a noise, by barking or otherwise, that is clearly audible by a person on premises usually used as a residence:
    - (i) for periods of more than 2 minutes; or
    - (ii) more than 3 times in one hour;

- (b) repeatedly barks when people or vehicles use a public place in the vicinity of the premises where the dog is kept; or
  - (c) subject to these By-laws, repeatedly defecates in such a place as to cause annoyance to a particular person.
- (4) It is a defence to a prosecution for an offence against clause (1), in respect of the actions of a dog referred to in clause (3)(c), if the owner or the owner's agent immediately removes the faeces and disposes of it in the gutter of a road with a constructed curb, a public garbage receptacle or on the owner's own property.

**38 Abandoning animals**

A person shall not abandon an animal in the Municipality.

**39 Removal of animal from custody of authorized person, &c.**

A person shall not:

- (a) remove or attempt to remove an animal from the custody of an authorized person; or
- (b) except in pursuance of these By-laws, remove or attempt to remove an animal from a pound or animal refuge.

**40 False statements**

- (1) A person shall not knowingly make a false statement in a document required or permitted to be made under these By-laws.
- (2) A person shall not, when requested by an authorized person under section 82(6)(a) of the Act to give his or her name and address, give a false name or address.

**Division 2 Enforcement**

**41 Animal to be impounded**

A person who seizes an animal in pursuance of these By-laws shall, unless the owner of the animal is in the immediate vicinity, deliver the animal to a pound as soon as practicable after seizing it.

**42 Notices to carry out work, &c.**

- (1) Where the Council is satisfied that premises on which a registered animal is kept, or premises licensed under these By-laws, do not comply with a condition (including a condition relating to fencing) to which the registration or licence is subject, the Council may serve on the registered owner or the holder of the licence a notice

requiring the work specified in the notice to be carried out on the premises, and specifying the manner in which it is performed.

- (2) In the event of non-compliance with a notice referred to in clause (1), the Council may carry out the work required by the notice, and the reasonable cost of the work so carried out is a debt due and payable by the registered owner or holder of the licence to the Council.

#### **43            Seizure, &c., of animals**

An authorized person may:

- (a)    seize:
- (i)    an apparently diseased, injured, savage, destructive or stray animal or an animal which is a nuisance for the purposes of by-law 37; or
  - (ii)   an animal that is at large; or
  - (iii)  an unregistered dog; and
- (b)    where, in the opinion of an authorized person it is necessary to do so, destroy a diseased, injured, savage, destructive, unclaimed or unwanted animal or an animal which is a nuisance for the purposes of by-law 37.

### **Division 3            Pounds**

#### **44            Establishment of pounds and animal refuges**

- (1) The Council:
- (a)    shall establish a pound; and
  - (b)    may establish an animal refuge,  
in the Municipality.
- (2) The Council shall appoint an authorized person to be the manager of:
- (a)    a pound; or
  - (b)    an animal refuge, where an animal refuge is established under clause (1).

- (3) The Council may, by resolution, determine:
- (a) the hours during which a pound shall be open;
  - (b) the length of time that an animal shall be impounded before it may be disposed of; and
  - (c) the fees to be charged for the maintenance of an animal in a pound and for the release of an animal from the pound.

**45            Notice of impounding**

- (1) Where an animal is delivered to a pound under these By-laws, the pound manager shall display a notice at the pound describing the animal and stating the location where it was seized.
- (2) Where an animal that is registered, whether or not under these By-laws, is delivered to a pound and details of its registration can be reasonably ascertained by the pound manager, the pound manager shall, as soon as practicable, notify the registered owner of the impounding of the animal.

**46            Release of animals from pound**

- (1) An animal in a pound shall not be released from the pound:
- (a) subject to clause (3), unless it is registered;
  - (b) other than to the owner of the animal or the owner's agent; and
  - (c) unless there is paid to the pound manager:
    - (i) the fees determined by the Council under by-law 44(3)(c); and
    - (ii) the costs, if any, referred to in by-law 47(4).
- (2) The burden of proof as to whether a person is the owner of an animal or the owner's agent is on that person.
- (3) Clause (1)(a) does not apply where the animal:
- (a) is a dog that has not been ordinarily kept in the Municipality during the period of 3 consecutive months immediately preceding the date of the release of the dog from the pound; or
  - (b) is not required by these By-laws to be registered.



- (4) The burden of proof in relation to a matter referred to in clause (3)(a) is on the owner of the dog or the owner's agent.

#### **47 Diseased animals**

- (1) If an animal at a pound is diseased, the pound manager shall, as soon as practicable:
- (a) isolate the animal from other animals in the pound; and
  - (b) notify the owner of the animal, if known, that the animal is diseased.
- (2) The pound manager may require the owner of a diseased animal at a pound to produce to the pound manager, within the time specified by the pound manager, a report prepared by a veterinarian or by a person specified by the pound manager relating to:
- (a) the diseased animal; and
  - (b) all other animals ordinarily kept at the premises where the diseased animal was kept,
- and the owner of the diseased animal shall comply with the requirement.
- (3) Subject to these By-laws, the pound manager may release a diseased animal from a pound on such conditions as determined by the Council, and the owner of the animal shall not contravene or fail to comply with those conditions.
- (4) The cost of treatment reasonably provided by the pound manager to a diseased animal, and to any other animal in the pound that was infected or was at risk of being infected by the diseased animal before the manager could reasonably isolate it, is a debt due and payable by the owner of the diseased animal to the Council.

#### **48 Sale or disposal of impounded animals**

- (1) Subject to this by-law, the pound manager may sell or otherwise dispose of an animal impounded in a pound.
- (2) The pound manager shall not sell or otherwise dispose of an animal in a pound before the expiration of the time determined by the Council under by-law 44(3)(b).
- (3) Nothing in this by-law limits the power of an authorized person to destroy an animal under by-law 43.

## **Part 6                      Miscellaneous**

### **49                      Exemptions**

The Council may, by resolution, exempt:

- (a) a guide dog;
- (b) a hearing dog;
- (c) a therapy dog;
- (d) a dog used by an officer, within the meaning of the *Customs Act 1901* of the Commonwealth, in the course of the administration of that Act;
- (e) a dog used as a guard dog by a member of the Defence Force while it is being so used; and
- (f) a dog used on police work by a member of the Police Force while it is being so used,

from the application of by-law 26, 27, 31 or 36.

### **50                      Change of ownership of registered animal, &c.**

- (1) A person who acquires ownership of a registered animal shall, not later than 28 days after acquiring ownership, give to the Registrar, in writing, particulars of:
  - (a) the name of the former registered owner;
  - (b) the name and address of the present owner; and
  - (c) the registration number of the animal.
- (2) A registered owner who changes his or her address shall, not later than 28 days after the change, notify the Registrar, in writing, of the new address.

### **51                      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 a fee, the granting of a rebate or the method of payment of a fee in such circumstances as are specified in the resolution determining the fee.

**52 Notice of resolutions**

The Council shall cause notice of a resolution made under these By-laws to be published in a newspaper circulating in the Municipality not later than 21 days after its making.

**53 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.

**54 Infringement notice and payment of sum in lieu of penalty**

- (1) Despite by-law 53, as an alternative to prosecution, a person who is alleged to have contravened or failed to comply with a by-law specified in column 1 of Schedule 1 may be served with an infringement notice under which the person may pay to the Council a sum (***fixed penalty***) in lieu of the penalty by which the infringement of that by-law is otherwise punishable.
- (2) For the purposes of this by-law:
  - (a) the sum specified in column 3 of Schedule 1 is the fixed penalty payable under an infringement notice for an infringement of the by-law specified opposite in column 1, and generally described opposite in column 2, of that Schedule;
  - (b) an infringement notice is to be in a form, approved by the Council in accordance with clause (4), that includes:
    - (i) the information required by section 245(2) of the Act; and
    - (ii) the statements required by clause (3);
  - (c) an infringement notice may be issued and served by an authorised person;
  - (d) the fixed penalty specified in an infringement notice is to be paid to the Council; and
  - (e) the fixed penalty specified in an infringement notice is to be paid within 14 days after the date on which the infringement notice is served on the alleged offender.

- (3) An infringement notice is to contain the following statements:
- (a) a statement to the effect that:
    - (i) the alleged offender may expiate the offence and avoid enforcement action under the *Fines and Penalties (Recovery) Act* if he or she pays the fixed penalty to the Council within 14 days of service of the infringement notice; and
    - (ii) if the alleged offender pays the fixed penalty within the period specified in the infringement notice, the Council will take no further action in relation to the offence;
  - (b) a statement to the effect that if the alleged offender does not pay the fixed penalty within the period specified in the infringement notice and does not serve on the Council a statement of election to have the matter dealt with by a court (as contained in the infringement notice):
    - (i) the *Fines and Penalties (Recovery) Act* will apply and the alleged offender may be served with a courtesy letter in accordance with that Act requiring payment of the fixed penalty together with the costs in respect of the issue of that letter; and
    - (ii) if the alleged offender does not make the payment as required by a courtesy letter, enforcement action may be taken against him or her under the *Fines and Penalties (Recovery) Act* which, after due process, may result in the suspension of the alleged offender's licence to drive, the seizure of property, the deduction of wages or salary, the registration of a statutory charge on land, a community work order or imprisonment if a community work order is breached;
  - (c) a statement to the effect that the alleged offender may elect under section 21 of the *Fines and Penalties (Recovery) Act* to have the matter dealt with by a court instead of under that Act by completing a statement of election (as contained in the infringement notice) and serving it on the Council:
    - (i) at any time before a courtesy letter is served on the alleged offender; or
    - (ii) if a courtesy letter is served on the alleged offender – before the due date specified in that letter;

- (d) a statement of election, for completion by the alleged offender if he or she elects to have the matter dealt with by a court, that includes the information required by regulation 7(1) of the *Fines and Penalties (Recovery) Regulations*.
- (4) For the purposes of clause (2)(b), the form of an infringement notice is to be approved by the Council at a meeting at which not less than two-thirds of the members then in office are present, by resolution carried by a majority of the members then in office.

## **55 Police powers**

Without derogating from their general power, members of the Police Force may arrest or remove persons offending against these By-laws.

## **56 Regulatory offences**

An offence of contravening or failing to comply with by-law 26, 27, 28, 29(b), 30, 31, 32, 33, 34, 34A, 35, 36, 37, 38, 39, 40(2) or 50 is a regulatory offence.

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**Schedule 1 Fixed penalties**

		by-law 54(1) and (2)(a)
Column 1 By-law	Column 2 General description of offence	Column 3 Penalty \$
13	No identification device	50
26	Keep unregistered dog	50
27	Unlicensed premises	50
27	Unlicensed cat breeding	50
28	Breach of conditions	50
29	Remove identification device	50
30	Failure to supply of sterilisation certificate	50
30	False sterilisation marking	50
30	Supply false sterilisation certificate	50
31	Dog or cat in place with other animal	50
32	Dog attacking person	100
32	Dog menacing person	100
32	Dog attacking animal	50
32	Dog menacing animal	50
32	Person encouraging menace or attack	50
33	Dog chasing vehicle	50
34	Animal at large	50
34A	Cat repeatedly at large	50
35	Breach relating to dog restriction area	50
36	Person enticing animal to be at large	50
37	Animal causing nuisance	50
38	Abandoning animal	100
39	Removing animal from custody of authorized person	100
39	Removing animal from pound	100
40	Making false statement in document	50
40	False name or address	50
50	Failure to notify change of ownership	50
50	Failure to notify change of address	50

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**ENDNOTES**
**1 KEY**

Key to abbreviations

<b>amd = amended</b>	<b>od = order</b>
<b>app = appendix</b>	<b>om = omitted</b>
<b>bl = by-law</b>	<b>pt = Part</b>
<b>ch = Chapter</b>	<b>r = regulation/rule</b>
<b>cl = clause</b>	<b>rem = remainder</b>
<b>div = Division</b>	<b>renum = renumbered</b>
<b>exp = expires/expired</b>	<b>rep = repealed</b>
<b>f = forms</b>	<b>s = section</b>
<b>Gaz = Gazette</b>	<b>sch = Schedule</b>
<b>hdg = heading</b>	<b>sdiv = Subdivision</b>
<b>ins = inserted</b>	<b>SL = Subordinate Legislation</b>
<b>lt = long title</b>	<b>sub = substituted</b>
<b>nc = not commenced</b>	

**2 LIST OF LEGISLATION*****Alice Springs (Animal Control) By-laws (SL No. 15, 1992)***

Notified	3 April 1992
Commenced	3 April 1992

***Amendments of Alice Springs (Animal Control) By-laws (SL No. 9, 1993)***

Notified	2 June 1993
Commenced	2 June 1993

***Amendments of Alice Springs (Animal Control) By-laws (SL No. 31, 1993)***

Notified	1 October 1993
Commenced	1 October 1993

***Amendments of Alice Springs (Animal Control) By-laws (SL No. 8, 1996)***

Notified	21 February 1996
Commenced	21 February 1996

***Amendments of Alice Springs (Animal Control) By-laws (SL No. 56, 1996)***

Notified	11 December 1996
Commenced	11 December 1996

***Amendments of Alice Springs (Animal Control) By-laws (SL No. 43, 2000)***

Notified	23 August 2000
Commenced	23 August 2000

***Amendments of Alice Springs (Animal Control) By-laws (SL No. 63, 2002)***

Notified	26 March 2003
Commenced	26 March 2003

***Statute Law Revision Act 2005 (Act No. 44, 2005)***

Assent date	14 December 2005
Commenced	s 33: 1 March 2001 (s 2(1), s 2 <i>Wills Act 2000</i> (Act No. 59, 2000) and Gaz G48, 6 December 2000, p 3); rem: 14 December 2005 (s 2(2))

**3**

**LIST OF AMENDMENTS**

bl 4	amd No. 8, 1996, bl 2; No. 56, 1996, bl 2; Act No. 44, 2005, s 23
bl 6	sub No. 43, 2000, bl 1
pt 3	
div 1 hdg	amd No. 8, 1996, bl 4
bl 11	amd No. 9, 1993, bl 1; No. 56, 1996, bl 3
bl 13	amd No. 31, 1993, bl 1; Act No. 44, 2005, s 23
bl 15	amd No. 8, 1996, bl 3
bl 16	amd No. 8, 1996, bl 5
pt 3	
div 2 hdg	amd No. 56, 1996, bl 4
bl 19	amd No. 56, 1996, bl 5
bl 20	amd No. 56, 1996, bl 6
bl 21	amd No. 56, 1996, bl 7
bl 26	amd No. 8, 1996, bl 6; No. 56, 1996, bl 8; Act No. 44, 2005, s 23
bl 27	amd No. 56, 1996, bl 9
bl 29	amd No. 8, 1996, bl 7
bl 34	sub No. 8, 1996, bl 8
bl 34A	ins No. 8, 1996, bl 8
bl 36	sub No. 8, 1996, bl 9
bl 43	amd No. 8, 1996, bl 10
bl 47	amd Act No. 44, 2005, s 23
bl 54	sub No. 63, 2002, bl 1
bl 56	ins No. 8, 1996, bl 11
sch 1	amd No. 9, 1993, bl 2; No. 8, 1996, bl 12; No. 56, 1996, bl 10
sch 2	amd No. 8, 1996, bl 12; No. 56, 1996, bl 11 rep No. 63, 2002, bl 2