

NORTHERN TERRITORY OF AUSTRALIA
DARWIN CITY COUNCIL AMENDMENT (ANIMAL MANAGEMENT)
BY-LAWS 2007

Subordinate Legislation No. 44 of 2007

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NORTHERN TERRITORY OF AUSTRALIA

Subordinate Legislation No. 44 of 2007*

Darwin City Council Amendment (Animal Management) By-Laws 2007

The Darwin City Council, pursuant to the powers conferred on it by the *Local Government Act* and in accordance with section 184(3) and (4) of the Act, at a meeting held on 10 October 2007, made the following by-laws and, for section 63(2)(a) of the *Interpretation Act*, authorised Allan Raymond McGill, the Chief Executive Officer, to sign them.

Dated 11 October 2007.

A. R. McGill
Chief Executive Officer

The common seal of the Darwin City Council is affixed pursuant to a resolution of the council authorising the seal to be affixed passed on 10 October 2007.

G. A. Lambert
Mayor

A. R. McGill
Chief Executive Officer

NB: Council by-laws must be sealed under section 184(5) of the *Local Government Act*. If other by-laws do not need to be sealed, delete this part of the document.

* Notified in the *Northern Territory Government Gazette* on 30 June 2008.

1 Citation

These By-laws may be cited as the *Darwin City Council Amendment (Animal Management) By-laws 2007*.

2 By-laws amended

These By-laws amend the *Darwin City Council By-laws*.

3 Amendment of by-law 3 (Interpretation)

- (1) By-law 3, definition **owner**, paragraph (a), after "dog"

insert

or cat

- (2) By-law 3, definition **owner**, paragraph (b)

omit, substitute

(b) a dog or cat means:

- (i) the person whose name appears in the appropriate register as the owner of the dog or cat; or
- (ii) the owner of the dog or cat as defined in by-law 53(2);

4 Repeal and substitution of by-law 5

By-law 5

repeal, substitute

5 Determinations

- (1) The council may determine the charges, dues, fares, fees and rents in relation to a property, undertaking, service, matter or thing.
- (2) A determination under clause (1) may (for example) be made for any of the following:
 - (a) supplying a service, product or commodity;
 - (b) granting a licence or permit;
 - (c) registering an animal or thing;
 - (d) giving information;
 - (e) admitting a person to a building or enclosure;

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- (f) receiving an application for approval;
 - (g) permitting inspection of a register;
 - (h) allowing the use of real or personal property of or under its care.
- (3) If the council makes a determination under this by-law, it must publish a notice of its making in a newspaper circulating in the municipality as soon as practicable after the determination is made.
- (4) The council may demand and recover the relevant amount determined under clause (1) if the council has:
- (a) published a notice of the making of the determination under clause (3); and
 - (b) taken the action for which the amount is determined.

5 Amendment of by-law 20 (General penalty)

- (1) By-law 20
- omit*
- \$3,000
- substitute*
- 100 penalty units

- (2) By-law 20
- omit*
- \$100
- substitute*
- 1 penalty unit

6 Amendment of by-law 21 (Infringement notice and payment of sum in lieu of penalty)

- By-law 21(2)(a)
- omit, substitute*

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- (a) the fixed penalty payable under an infringement notice:
- (i) for a by-law specified in the Schedule, column 1 – is the amount specified opposite in column 3; and
 - (ii) for any other by-law – 1 penalty unit.

7 Repeal and substitution of Part 3, Division 2

Part 3, Division 2

repeal, substitute

Division 2 Control of dogs and cats

Subdivision 1 Preliminary matters

53 Interpretation

- (1) In this Division:

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

attack means either or both of the following:

- (a) a Level 1 attack;
- (b) a Level 2 attack.

cat means an animal of the genus *Felis*.

class, of cats or dogs, means cats or dogs of a specified breed, kind or description.

declared dog means:

- (a) a Declared Dog (Category 1); or
- (b) a Declared Dog (Category 2); or
- (c) a Declared Dog (Category 3).

Declared Dog (Category 1) means:

- (a) a dog declared as such under by-law 55B(1); or
- (b) a member of a class of dogs declared to be a prescribed breed under by-law 55B(3).

Declared Dog (Category 2) means a dog declared as such under by-law 55C(1).

Declared Dog (Category 3) means a dog declared as such under by-law 55D(1).

dog means an animal of the genus *Canis*.

dog exercise area means a dog exercise area declared under by-law 62(1).

dog restriction area means a dog restriction area declared under by-law 62(2).

dog-tag means a dog-tag issued or permitted under by-law 57.

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

Level 1 attack, see by-law 55A(1).

Level 2 attack, see by-law 55A(2).

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

prescribed breed, of dog, means a class of dogs declared to be a prescribed breed under by-law 55B(3).

registered owner, of a dog or cat, means the person named in the register as the owner of the dog or cat.

repealed by-laws means:

- (a) the *Darwin (Control of Dogs) By-laws* as repealed by these By-laws; or
- (b) Part 3, Division 2 of these By-laws as in force immediately before the commencement of this by-law.

suitable leash means a leash, cord, chain or similar device not longer than 2 metres or another length approved by the council.

veterinarian means a registered veterinarian as defined in the *Veterinarians Act*.

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- (2) Unless the contrary intention appears, a reference in this Division to the owner of a dog or cat (other than to the registered owner) includes the following persons:
- (a) the person for the time being controlling the dog or cat;
 - (b) the occupier of premises or a part of premises where the dog or cat is usually kept; and
 - (c) if the owner has not attained the age of 17 years – a parent or guardian of the owner.
- (3) However, a reference to the owner of a dog or cat does not include a person controlling or keeping a dog or cat under Subdivision 6 or 7.
- (4) A reference in this Division to a dog or cat at large is a reference to a dog or cat:
- (a) in a place other than premises owned or occupied by the owner of the dog or cat; and
 - (b) not in the custody of an authorised person or in a pound.

54 Exemptions

By-laws 63, 64, 65 and 70A do not apply in relation to a guide dog.

55 Register

- (1) Particulars in the register kept for the purposes of this Division must include a reference to the by-law under this Division or the repealed by-laws:
- (a) for which a registered owner has been convicted; or
 - (b) in relation to which a registered owner has paid a sum specified by these By-laws or the repealed by-laws for an infringement notice issued under these By-laws or the repealed by-laws.
- (2) The registrar must keep, as part of the register, the registers required to be kept under the repealed by-laws.

Subdivision 1A Declared Dogs

55A Attack by dog

- (1) A dog commits a Level 1 attack if the dog bites or holds a person or animal in its mouth whether or not:
 - (a) the holding is accompanied by biting, shaking, pulling or pushing; or
 - (b) the person or animal suffers any injury (physical or otherwise).
- (2) A dog commits a Level 2 attack if the dog approaches, chases, menaces, harasses or rushes at a person or animal in a manner endangering or causing fear, alarm or distress to the person or animal.
- (3) Clause (2) applies whether or not there is any contact or injury to the person or animal.

55B Declared Dog (Category 1)

- (1) An authorised officer may declare a dog that has committed a Level 1 attack to be a Declared Dog (Category 1).
- (2) If an authorised officer declares a dog to be a Declared Dog (Category 1), the council must serve notice of the declaration on the owner of the dog.
- (3) The council may, by resolution, declare a class of dogs to be a prescribed breed.
- (4) If the council declares a class of dogs to be a prescribed breed:
 - (a) each dog of that class is a Declared Dog (Category 1); and
 - (b) the council must publish a notice of the declaration in a newspaper circulating in the municipality.
- (5) Not later than 14 days after a notice is served under clause (2) or published under clause (4), the owner of a dog to which the notice applies must:
 - (a) register the dog as a Declared Dog (Category 1); and
 - (b) pay the council the difference between the registration fee payable for a Declared Dog (Category 1) and the fee paid for the dog's current registration.

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- (6) If the dog is otherwise registered and the owner of the dog fails to re-register the dog in accordance with clause (5), the dog is taken to be unregistered.
- (7) The council must refuse to register a dog as a Declared Dog (Category 1) unless the owner of the dog has:
- (a) arranged for the dog to be fitted with an approved permanent electronic subcutaneous device; and
 - (b) erected signage on each of the premises where the dog is usually or regularly kept with the words "Warning Dangerous Dog" clearly visible and legible from the boundaries of the premises; and
 - (c) notified the council of the address of the premises where the dog is usually kept (unless the address is the same as the address under which the dog is currently registered).
- (8) As a condition of registration of a Declared Dog (Category 1), the owner of the dog must:
- (a) ensure the dog is not at any time under the sole charge of a person under the age of 17; and
 - (b) ensure the dog is controlled by a suitable leash at all times when:
 - (i) outside the premises where the dog is usually kept; or
 - (ii) kept on premises that are not fenced in the manner approved by the council; and
 - (c) place a muzzle on the dog at all times when it is outside the premises where it is usually kept; and
 - (d) inform a prospective purchaser or owner of the dog that it is a Declared Dog (Category 1); and
 - (e) not sell or give the dog to a person under the age of 17; and
 - (f) if ownership of the dog is transferred – notify the council of the name and address of the new owner within 24 hours after the transfer; and
 - (g) if the premises where the dog is usually kept changes – notify the council of the new address within 7 days after the change; and

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- (h) if the owner intends to keep the dog at a different location to the premises where the dog is usually kept for a period exceeding 14 days – notify the council of the new address within 24 hours after the relocation; and
 - (i) if the dog attacks, or is alleged to have attacked, a person or animal – notify the council of the attack, or alleged attack, within 24 hours after the attack or the owner is made aware of the alleged attack; and
 - (j) if the dog is missing – notify the council within 24 hours after the owner becomes aware of the dog's absence; and
 - (k) if the dog has died – notify the council within 14 days after its death; and
 - (l) comply with any other conditions imposed by the council.
- (9) Clause (8)(a) to (c) does not apply to Declared Dog (Category 1) that is less than an age determined by the council.
- (10) In addition, an authorised officer may recommend, as a condition of the dog's registration, that the owner of a Declared Dog (Category 1) house the dog in a child-proof enclosure.

55C Declared Dog (Category 2)

- (1) An authorised officer may declare a dog that has committed a Level 2 attack to be a Declared Dog (Category 2).
- (2) If an authorised officer declares a dog to be a Declared Dog (Category 2), the council must serve notice of the declaration on the owner of the dog.
- (3) Not later than 14 days after the notice is served, the owner must:
 - (a) register the dog as a Declared Dog (Category 2); and
 - (b) pay the council the difference between the registration fee payable for a Declared Dog (Category 2) and the fee paid for the dog's current registration.
- (4) If the dog is otherwise registered and the owner of the dog fails to re-register the dog in accordance with clause (3), the dog is taken to be unregistered.

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- (5) The council must refuse to register a dog as a Declared Dog (Category 2) unless the owner of the dog has:
- (a) arranged for the dog to be fitted with an approved permanent electronic subcutaneous device; and
 - (b) erected signage on each of the premises at which the dog is usually or regularly kept, with the words "Warning Dangerous Dog" clearly visible and legible from the boundaries of the property; and
 - (c) notified the council of the address of the premises where the dog is usually kept (unless the address is the same as the address under which the dog is currently registered).
- (6) As a condition of registration of a Declared Dog (Category 2), the owner of the dog must:
- (a) ensure the dog is not at any time under the sole charge of a person under the age of 17; and
 - (b) ensure the dog is controlled by a suitable leash at all times when:
 - (i) outside the premises where the dog is usually kept; or
 - (ii) kept on premises that are not fenced in the manner approved by the council; and
 - (c) inform a prospective purchaser or owner of the dog that it is a Declared Dog (Category 2); and
 - (d) not sell or give the dog to a person under the age of 17; and
 - (e) if ownership of the dog is transferred – notify the council of the name and address of the new owner within 24 hours after the transfer; and
 - (f) if the premises where the dog is usually kept changes – notify the council of the new address within 7 days after the change; and
 - (g) if the owner intends to keep the dog at a different location to the premises where the dog is usually kept for a period exceeding 14 days – notify the council of the new address within 24 hours after the relocation; and
 - (h) if the dog is missing – notify the council within 24 hours after the owner becomes aware of the dog's absence; and

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- (i) if the dog has died – notify the council within 14 days after its death; and
 - (j) comply with any other conditions imposed by the council.
- (7) In addition, an authorised officer may recommend, as a condition of the dog's registration, that the owner of a Declared Dog (Category 2) do one or both of the following:
- (a) house the dog in a child-proof enclosure;
 - (b) place a muzzle on the dog at all times when the dog is outside the premises where it is usually kept.

55D Declared Dog (Category 3)

- (1) An authorised officer may declare a dog to be a Declared Dog (Category 3) if the owner of the dog has, in relation to the dog, been found guilty of an offence against any of the following:
- (a) by-law 65;
 - (b) by-law 66;
 - (c) by-law 66A;
 - (d) by-law 67;
 - (e) by-law 68;
 - (f) by-law 69;
 - (g) by-law 70;
 - (h) by-law 70A;
 - (i) by-law 71.
- (2) If an authorised officer declares a dog to be a Declared Dog (Category 3), the council must serve notice of the declaration on the owner of the dog.
- (3) Not later than 14 days after the notice is served, the owner must:
- (a) register the dog as a Declared Dog (Category 3); and
 - (b) pay the council the difference between the registration fee payable for a Declared Dog (Category 3) and the fee paid for the dog's current registration.

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- (4) If the dog is otherwise registered and the owner of the dog fails to re-register the dog in accordance with clause (3), the dog is taken to be unregistered.
 - (5) The council must refuse to register a dog as a Declared Dog (Category 3) unless the owner of the dog has arranged for the dog to be fitted with an approved permanent electronic subcutaneous device.
 - (6) As a condition of registration of a Declared Dog (Category 3), the owner of the dog must:
 - (a) ensure the dog is controlled by a suitable leash at all times when kept on property that is not fenced in the manner approved by the council; and
 - (b) notify a prospective purchaser or owner of the dog that it is a Declared Dog (Category 3); and
 - (c) if the premises where the dog is usually kept changes – notify the council of the new address within 7 days after the change; and
 - (d) if the owner intends to keep the dog at a different location to the premises where the dog is usually kept for a period exceeding 14 days – notify the council of the new address within 24 hours after the relocation; and
 - (e) if the dog has died – notify the council within 14 days after its death; and
 - (f) comply with any other conditions imposed by the council.

55E Revocation of declared dog status

- (1) The owner of a declared dog may apply to the council to revoke the declaration for the dog.
- (2) If an owner makes an application under clause (1), the council may:
 - (a) revoke the declaration; or
 - (b) refuse the application.
- (3) The council must notify the owner of its decision under clause (2).
- (4) If the council revokes the declaration, the revocation takes effect from the date notice is given to the owner under clause (3).

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- (5) If the council refuses the application, the council is not obliged to consider a further application in relation to the dog made within 6 months of the refusal.

55F New dog in municipality

- (1) This by-law applies to a dog that has relocated to the municipality.
- (2) If an authorised officer is satisfied that prior to its relocation the dog has committed :
- (a) a Level 1 attack – the authorised officer may declare the dog to be a Declared Dog (Category 1) under by-law 55B(1); or
 - (b) a Level 2 attack – the authorised officer may declare the dog to be a Declared Dog (Category 2) under by-law 55C(1).
- (3) If an authorised officer is satisfied the owner of the dog has, in relation to the dog, been found guilty of an offence which, if committed in the municipality, would be an offence under a by-law mentioned in by-law 55D(1), the authorised office may declare under by-law 55D(1) the dog to be a Declared Dog (Category 3).

Subdivision 2 Registration of dogs and cats and licensing of premises

55G Registration fee

- (1) The council may determine the fee for the registration of a dog or cat.
- (2) The council may determine different fees are payable for the registration depending on whether or not:
- (a) the applicant is a pensioner; or
 - (b) if the application is to register a dog – the dog is a declared dog.
- (3) The council may apply a reduced registration fee for a dog if the owner of the dog gives the council a certificate in the approved form certifying the dog:
- (a) has been sterilised by a veterinarian; or
 - (b) has been trained by an approved trainer.
- (4) The council may apply a reduced registration fee for a cat if the owner of the cat gives the council a certificate in the approved form certifying the cat has been sterilised by a veterinarian.

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- (5) The council may approve:
 - (a) a certificate of sterilisation to be issued to the owner of the dog or cat; and
 - (b) a mark to be used to identify the dog or cat as having been sterilised.
 - (6) If the council has approved a certificate of sterilisation under clause (5)(a), a veterinarian must, on sterilising a dog or cat, issue the certificate to its owner.

56 Application for registration

- (1) The council must, not later than 28 days after receiving an application for the registration of a dog or cat:
 - (a) register or renew the registration of the dog or cat, either conditionally or unconditionally; or
 - (b) refuse to register or renew the registration of the dog or cat.
- (2) However, the period specified in clause (1) may be extended by a further 14 days to enable the owner to satisfy any conditions imposed, or proposed to be imposed, on the registration.
- (3) If the council refuses to register or renew the registration, the council must refund to the applicant the fee accompanying the application.
- (4) The council may refuse to register or renew the registration of a dog or cat if:
 - (a) the dog or cat is not fitted with an approved permanent electronic subcutaneous implant; or
 - (b) within the period of 12 months immediately before the application:
 - (i) the owner of the dog or cat has been found guilty of more than 2 offences against this Division; or
 - (ii) the dog or cat has been impounded under this Division on more than 2 occasions; or
 - (c) within the period of 12 months immediately before the application 2 or more complaints have been received relating to:

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- (i) the state of (including odour emanating from) the premises where the dog or cat is usually kept, caused by or as a result of keeping the dog or cat; or
 - (ii) the unauthorised presence of the dog or cat on premises other than the premises where the dog or cat is usually kept; or
 - (d) the owner of the dog or cat refuses to allow an authorised officer to inspect the premises on which the dog or cat is usually kept to ascertain the state and condition of the premises or its fencing, or both.
- (5) The council may refuse to register or renew the registration of a dog if:
- (a) the dog is a declared dog and in the period of 12 months immediately before the application it is the subject of 2 or more complaints; or
 - (b) the dog is a declared dog and the owner of the dog has not complied with the registration requirements in Subdivision 1A; or
 - (c) the premises on which the dog is usually kept are not fenced in the manner determined by the council.
- (6) The council must refuse to register or renew the registration of a dog or cat if, in keeping the dog or cat on the premises on which the dog or cat is usually kept, the applicant would be in breach of by-law 64.
- (7) The council must refuse to register or renew the registration of a dog if the dog, other than a dog referred to in by-law 65(4), is usually kept on premises within a dog restriction area.
- (8) If the council refuses to register or renew the registration of a dog or cat, or imposes conditions on the registration or renewal of the registration, the council must notify the applicant of the reasons for its decision.
- (9) For clause (4)(a), a certificate from a veterinarian in the approved form stating the dog or cat is fitted with an approved permanent electronic subcutaneous implant is proof that the dog or cat is so fitted.
- (10) For clause (4)(b)(i), a finding of guilt for an offence includes the payment of a sum specified in the Schedule for an infringement notice issued under these By-laws.

57 Dog tag

- (1) If the council registers or renews the registration of a dog under by-law 56, it must issue a dog-tag to the applicant for fitting to the dog.
- (2) However, an authorised officer may permit a dog tag not issued by the council to be fitted to the dog if the dog tag clearly sets out contact details of the dog's owner.

58 Licensing premises

- (1) The council may determine the number of:
 - (a) dogs; or
 - (b) declared dogs; or
 - (c) dogs of a specified class; or
 - (d) cats; or
 - (e) cats of a specified class;that may be kept at premises within the municipality without a licence granted for the premises under this by-law.
- (2) A person may apply to the council for a licence to keep at premises more than the number of dogs or cats determined under clause (1).
- (3) The council must, not later than 28 days after receiving the application:
 - (a) license or renew the licence of the premises, either conditionally or unconditionally; or
 - (b) refuse to license or renew the licence of the premises.
- (4) If the council refuses to license or renew the licence of the premises, the council must refund to the applicant the fee accompanying the application.
- (5) In considering an application under clause (1), the council may take into account a matter that is, in its opinion, relevant and in particular may take into account the following:
 - (a) the facilities for controlling dogs or cats at the premises specified in the application;
 - (b) the number of dogs or cats kept or to be kept at the premises;

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- (c) the likely impact, if the licence is granted or renewed, on the residents in the locality where the premises are situated.
- (6) If the application is for a licence for the keeping of dogs, the council must not grant or renew the licence for premises if:
- (a) the council has determined the manner in which premises must be fenced; and
 - (b) the premises are not fenced in accordance with the determination.
- (7) The council may renew a licence without considering the application in the manner specified in clause (5) or (6) if:
- (a) to the council's knowledge no matters have arisen that, if taken into account at the time the licence was granted, would have caused the council to refuse to grant the licence or to grant the licence subject to conditions other than those specified in the licence; and
 - (b) the council has not, since the grant of the licence, made a determination under clause (1) that affects the premises.
- (8) If the council refuses to grant or renew a licence or grants a licence subject to conditions or renews a licence subject to conditions not imposed on the original licence, the council must notify the applicant of the reasons for its decision.

Subdivision 3 Cancellation, variation or suspension of registration or licence

59 Cancellation, variation or suspension of registration or licence by request

- (1) The council may, on the written application of the registered owner of a dog or cat or the holder of a licence issued under Subdivision 2:
- (a) cancel the registration of the dog or cat or the licence; or
 - (b) vary the conditions to which the registration of the dog or cat or the licence is subject; or
 - (c) in the case of a licence – suspend the licence for the period requested by the applicant.

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- (2) However, the council must not vary any of the conditions imposed on the registration of:
 - (a) a Declared Dog (Category 1) under by-law 55B(8)(a) to (k); or
 - (b) a Declared Dog (Category 2) under by-law 55C(6)(a) to (i); or
 - (c) a Declared Dog (Category 3) under by-law 55D(6)(a) to (e).
 - (3) The council must notify the owner of its decision under clause (1).
 - (4) If the council varies a condition, the variation takes effect from the date the owner is notified under clause (3).
 - (5) If the council refuses the application, the council is not obliged to consider a further application in relation to the dog made within 6 months of the refusal.

60 Cancellation, variation or suspension of registration or licence otherwise than by request

- (1) The council may, by notice served on the registered owner of a dog or cat or the holder of a licence issued under Subdivision 2, require the registered owner or holder to show cause why the council should not:
 - (a) cancel the registration of the dog or cat or the licence; or
 - (b) vary, in the manner specified in the notice, the conditions to which the registration or the licence is subject; or
 - (c) suspend the licence for the period specified in the notice.
- (2) The council may, not less than 7 days after the date of service of a notice under clause (1), by another notice in writing served on the person on whom the first-mentioned notice was served:
 - (a) cancel the registration of the dog or cat or cancel the licence; or
 - (b) vary, in the manner specified in the notice, the conditions to which the registration of the dog or cat or the licence is subject; or
 - (c) suspend the licence for the period specified in the notice, being a period not longer than the period specified in the first-mentioned notice.

61 Operation of notice

A notice served by the council under by-law 60(2) takes effect at the expiration of 7 days after the service of the notice.

Subdivision 4 Dog exercise areas and dog restriction area

62 Dog exercise area and dog restriction areas

- (1) The council may, by resolution:
 - (a) declare an area within the municipality to be a dog exercise area; and
 - (b) specify, for the area:
 - (i) the times when a dog may be exercised; and
 - (ii) conditions to apply to the exercising of the dog.
- (2) The council may, by resolution:
 - (a) declare an area within the municipality to be a dog restriction area; and
 - (b) prohibit the keeping at premises within the area all, or more than a specified number of:
 - (i) dogs; or
 - (ii) declared dogs; or
 - (ii) dogs of a specified class.
- (3) The council must, not less than 21 days before declaring an area to be a dog exercise area or dog restriction area, publish a notice of the proposed area in a newspaper circulating in the municipality.

Subdivision 5 Offences

63 Unregistered dog or cat

- (1) A person must not keep an unregistered dog or cat within the municipality.
- (2) An offence against clause (1) is a regulatory offence.

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- (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 or cat had not been kept in the municipality for a period of one month or more immediately before the date of the alleged offence or for periods totalling one month during the 3 month period immediately before that date.
 - (4) Clause (1) does not apply to:
 - (a) a pound manager keeping a dog or cat in a pound; or
 - (b) the Royal Society for the Prevention of Cruelty to Animals keeping a dog or cat in a refuge maintained by it; or
 - (c) a veterinarian keeping a dog or cat for the purposes of treatment; or
 - (d) a dog or cat under the age of 3 months, of which the burden of proof lies on the person asserting the age.

63A Failure to comply with condition of registration

- (1) The registered owner of a dog or cat must not contravene a condition of registration for the dog or cat.
- (2) An offence against clause (1) is a regulatory offence.

64 Requirement for licence

- (1) The occupier of premises within an area of the municipality must not keep more than the number of dogs, declared dogs, class of dogs, cats or class of cats determined by the council:
 - (a) for the municipality under by-law 58(1); or
 - (b) for the area under by-law 62(2).
- (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 occupier of the premises proves the dogs or cats had not been kept at the premises:
 - (a) for a period of one month or more immediately before the date of the alleged offence; or
 - (b) for periods totalling one month during the 3 month period immediately before that date.
- (4) Clause (1) does not apply if the premises are licensed under by-law 58.

65 Keeping dog in dog restriction area

- (1) A person must not keep a dog in a dog restriction area where keeping the dog is prohibited.
- (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 under this by-law if the person charged with the offence proves that the dog, at the date of the declaration of the dog restriction area:
 - (a) was owned by the person; and
 - (b) was usually kept at premises in the dog restriction area; and
 - (c) if required by this Division to be registered – was registered.

65A Dog not fitted with dog tag

- (1) The owner of a dog registered under by-law 56 must ensure that the dog is, at all times, wearing a dog tag:
 - (a) issued by the council under by-law 57(1); or
 - (b) permitted by an authorised officer under by-law 57(2).
- (2) An offence against clause (1) is a regulatory offence.
- (3) It is a defence to a prosecution for an offence under this by-law if:
 - (a) the dog is wearing a dog tag issued for another dog registered at the same address; and
 - (b) it is wearing the tag by mistake; and
 - (c) neither dog is a declared dog.

66 Removal of identification device

- (1) A person, other than the owner of the dog, must not remove a dog's identification device.
- (2) The owner of a registered dog must not permit the dog to be at large without its identification device.
- (3) An offence against clause (1) or (2) is a regulatory offence.

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- (4) It is a defence to a prosecution for an offence against clause (1) if the person proves that the removal of the identification device was reasonable in the circumstances.
 - (5) It is a defence to a prosecution for an offence against clause (2) if the owner of the dog proves:
 - (a) the device was removed without the owner's permission and the owner did not have sufficient opportunity to replace it; or
 - (b) the removal of the device and the failure to re-fit the device was reasonable in the circumstances.

66A Containment of dog

- (1) A person must not keep a dog that is not properly contained.
- (2) Clause (1) applies irrespective of:
 - (a) the duration the dog is not properly contained; or
 - (b) the ability of the person to contain the dog.
- (3) An offence against clause (1) is a regulatory offence.
- (4) In this by-law:

properly contained means:

- (a) kept within a fenced area from which the dog is unable to escape; or
- (b) kept inside a building or other enclosure from which the dog is unable to escape; or
- (c) enclosed in, or restrained by a suitable leash in or upon, a vehicle in a manner in which no part of the dog protrudes from the vehicle.

67 Dog or cat at large

- (1) If a dog or cat at large is not under effective control, the owner of the dog or cat commits an offence.
- (2) An offence against clause (1) is a regulatory offence.
- (3) For this by-law, a dog or cat is under effective control if the dog or cat is restrained by a suitable leash that, in the case of a dog:
 - (a) is held by a person who is competent to restrain the dog; or

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- (b) otherwise prevents the dog from breaking free or committing an attack.
- (4) In addition, a dog is under effective control if the dog is in a dog exercise area in accordance with the conditions specified under by-law 62(1)(b) for the area and all of the following apply:
- (a) the dog is immediately responsive to a voice command of its owner;
 - (b) the dog is not a female dog in oestrus;
 - (c) the owner is carrying a suitable leash.

68 Enticement

- (1) A person (including the owner of the dog) must not entice or induce a dog to act in a manner that would render the owner of the dog liable to prosecution for an offence against this Division.
- (2) An offence against clause (1) is a regulatory offence.

69 Dog attack

- (1) If a dog commits an attack, the owner of the dog commits an offence.
- (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 owner of the dog proves:
 - (a) a person had, without the owner's permission, enticed or induced the dog to commit the attack; or
 - (b) in the case of an attack on an animal – the animal was attacked on premises owned or occupied by the owner; or
 - (c) in the case of an attack on a person:
 - (i) the person was attacked on premises owned or occupied by the owner; and
 - (ii) at the time of the attack, the person was on the premises without reasonable excuse.

70 Dog chasing motor vehicles

- (1) If a dog chases a motor vehicle, the owner of the dog commits an offence.

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

70A Dog defecating

- (1) Clause (2) applies if a dog defecates in a public place or on private property that is not owned or occupied by the owner of the dog.
- (2) The owner or the person in control of the dog at the time the dog defecates must immediately remove and dispose of the faeces in a manner that is not offensive to another person.
- (3) A person accompanying a dog in a public place must carry a receptacle to collect the dog's faeces.
- (4) An offence against clause (2) or (3) is a regulatory offence.

71 Dog causing nuisance

- (1) A dog is a nuisance if the dog:
- (a) is habitually at large; or
 - (b) makes a noise, by barking or otherwise, that:
 - (i) persistently occurs; or
 - (ii) continues to such a degree or extent that it unreasonably interferes with the peace, comfort or convenience of a person in another premises; or
 - (c) chases or runs at:
 - (i) a person (whether or not the person is on foot or otherwise and whether or not there is a fence or other barrier between the person and the dog); or
 - (ii) an animal (other than in the course of droving, tending, working or protecting stock); or
 - (d) is offensive or endangers the health of a person or animal (other than in the course of droving, tending, working or protecting stock); or
 - (e) causes damage to anything outside the premises where the dog is usually kept.
- (2) If a dog is a nuisance, the owner of the dog commits an offence.
- (3) If an authorised officer is satisfied that a dog is a nuisance, the officer may serve on the owner of the dog:

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- (a) a notice requiring the owner to have the dog complete the training specified in the notice within the timeframe specified in the notice; or
 - (b) an order requiring the owner to prevent the behaviour specified in the notice.
- (4) An order under clause (3)(b) remains in force for no more than 6 months after it is served.
 - (5) The owner of a dog must comply with a notice or order served on the owner under clause (3).
 - (6) An offence against clause (2) or (5) is a regulatory offence.

72 Abandoning dog

- (1) A person must not abandon a dog in the municipality.
- (2) An offence against clause (1) is a regulatory offence.
- (3) In this by-law:

abandon includes deliberately leaving a dog at any premises or public place without the consent of the owner or occupier of the premises or the person in control of the public place.

73 Obstruction of council official and removal of dog or cat from pound

- (1) A person must not obstruct a council official in the execution of the official's duties under this Division.
- (2) A person must not:
 - (a) remove or attempt to remove a dog or cat from the custody of a council official; or
 - (b) unless permitted under this Division – remove or attempt to remove a dog or cat from a pound.
- (3) An offence against clause (1) or (2) is a regulatory offence.
- (4) In this by-law:

council official includes the following:

- (a) an authorised officer;
- (b) a pound manager;

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- (c) an employee of a pound manager.

73A Failure to respond to notice of impoundment

- (1) The registered owner of a dog or cat who is served with a notice of impoundment under by-law 77(3)(a) must collect the dog or cat from the pound and pay the appropriate maintenance and release fees within the time specified in the notice.
- (2) An owner who fails to comply with a notice of impoundment commits an offence.
- (3) An offence against clause (2) is a regulatory offence.

74 Sterilisation marks and certificates

- (1) A person must not mark a dog or cat with a mark approved by the council under by-law 55G(5)(b) unless the dog or cat has been sterilised.
- (2) A person who sells or gives a dog or cat to another person, must not:
 - (a) if the dog or cat has been sterilised – fail to supply to the other person proof in the form of a certificate approved by the council under by-law 55G(5)(a) that the dog or cat has been sterilised; or
 - (b) if the dog or cat has not been sterilised – state or represent that the dog or cat is sterilised.
- (3) An offence against clause (1) or (2) is a regulatory offence.

Subdivision 6 Enforcement

75 Seizure of dog or cat

- (1) An authorised person may seize:
 - (a) an apparently diseased, injured, savage, destructive, stray or unregistered dog or cat; or
 - (b) a dog or cat that is at large; or
 - (c) a declared dog, if the owner of the dog has not complied with the conditions of the dog's registration.
- (2) The authorised person may destroy the dog or cat if:
 - (a) the dog or cat is diseased, injured, savage or destructive; and

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- (b) in the opinion of the authorised person, it is necessary to do so.
 - (3) Otherwise, the authorised person must as soon as practicable:
 - (a) deliver the dog or cat to a pound; or
 - (b) return the dog or cat to its owner.

Subdivision 7 Pounds

76 Establishment of pound and determination of fees

- (1) The council may:
 - (a) establish a pound; or
 - (b) make such arrangements as it thinks fit for the use of premises for impounding dogs or cats under this Division.
- (2) The council may appoint a person to be the pound manager of a pound.
- (3) The council may determine:
 - (a) the daily fee payable for the maintenance of a dog or cat at a pound; and
 - (b) the fee payable for the release of a dog or cat from a pound.

77 Notice of impoundment

- (1) If a registered dog or cat with an identification device is delivered to a pound, the pound manager must:
 - (a) release the dog or cat in accordance with by-law 78; or
 - (b) notify the registrar.
- (2) If a dog or cat with a collar on which the address of its owner is displayed is delivered to a pound, the pound manager must notify the registrar.
- (3) If the registrar is notified:
 - (a) under clause (1) – the registrar must serve on the registered owner a notice of the impoundment of the dog or cat; or
 - (b) under clause (2) – the registrar may serve at the address displayed on the collar a notice of the impoundment of the dog or cat.

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- (4) Except in accordance with clause (3), the registrar is not obliged to notify the owner of a dog or cat of the impoundment of the dog or cat.

78 Release of dog or cat from pound

- (1) An impounded dog or cat must not be released from the pound:
- (a) unless it is registered; and
 - (b) other than to the owner of the dog or cat or to a person authorised to act as the owner's agent; and
 - (c) unless the council is paid the maintenance and release fees determined by the council under by-law 76(3).
- (2) Clause (1)(a) does not apply if the dog or cat:
- (a) has not been usually kept in the municipality for a period of one month immediately preceding the date of its release from the pound; or
 - (b) is under 3 months of age.
- (3) The burden of proof lies on a person who asserts that he or she:
- (a) is the owner of a dog or cat or a person authorised to act as the owner's agent; or
 - (b) has not kept the dog or cat in the municipality for the period specified or the dog or cat is under 3 months of age.

79 Diseased dog or cat

- (1) This by-law applies if a pound manager who takes custody of a dog or cat seized under this Division:
- (a) receives advice from a veterinarian that the dog or cat is, or is suspected of being, diseased; or
 - (b) notices or suspects that the dog or cat is diseased.
- (2) The pound manager must:
- (a) isolate the dog or cat from other animals in the pound; and
 - (b) notify the council of the condition of the dog or cat.
- (3) The council must serve on the owner, if known, of the dog or cat notice that the dog or cat is, or is suspected of being, diseased and that the council:

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- (a) requires the dog or cat to be destroyed; or
 - (b) requires the dog or cat to undergo a course of treatment specified in the notice.
- (4) In the notice, the council may require the owner to produce to the council, within the time specified in the notice, a report, prepared by a veterinarian, or a person specified in the notice, relating to:
- (a) the diseased dog or cat, unless the dog or cat is required to be destroyed; or
 - (b) all other animals usually kept at the premises where the diseased dog or cat was kept.
- (5) The dog or cat may be released from the pound in accordance with by-law 78 subject to any conditions imposed by the council.
- (6) A pound manager may destroy a dog or cat in a pound if the dog or cat is so diseased or injured that it is humane to destroy it.
- (7) The cost of treatment reasonably provided by a pound manager to a diseased dog or cat, and to any other animal in the pound that was infected or was at risk of being infected by the dog or cat before the manager could reasonably isolate it, is a debt payable by the owner of the dog or cat to the council.

80 Sale or disposal of impounded dog or cat

- (1) The council may determine the number of days or hours after which a pound manager may arrange for the destruction of a dog or cat delivered to the pound.
- (2) A dog or cat in a pound must not be destroyed other than:
- (a) by a veterinarian or a person who is, in the opinion of a pound manager, qualified to destroy the dog or cat; and
 - (b) in a manner that is approved by the Australian Veterinary Association.
- (3) Subject to this Part, a pound manager may, instead of destroying a dog or cat under this by-law:
- (a) sell or dispose of the dog or cat; or
 - (b) transfer ownership of the dog or cat to the Royal Society for the Prevention of Cruelty to Animals and sell or dispose of the dog or cat as agent for the Society.

Subdivision 8 Miscellaneous matters

81 Change of ownership or address

- (1) A person must, not later than 14 days after acquiring ownership of a registered dog or cat, notify the registrar of:
 - (a) the person's name and address; and
 - (b) the name of the current registered owner; and
 - (c) the registration number of the dog or cat.
- (2) The registered owner of a dog or cat must, not later than 14 days after a change in his or her address, notify the registrar of the new address.
- (3) On being notified of a change of ownership under clause (1) or of an address under clause (2), the registrar must amend the register accordingly.

82 Dog races and other events

- (1) The council may, by written notice, exempt a person or body from by-law 66 or 67, or both, for the following purposes or events:
 - (a) a dog race, dog trial or dog show;
 - (b) taking part in the activities of a dog obedience club;
 - (c) using a dog to drive cattle or stock on a road;
 - (d) any other purpose or event as the council may, from time to time, determine.
- (2) An exemption under clause (1) may relate to a particular event or to a class of events and is subject to any conditions imposed by the council.

8 New Part 9

After by-law 205

insert

Part 9 **Transitional matters for the *Darwin City Council Amendment (Animal Management) By-laws 2007***

206 **Definitions**

In this Part:

commencement means the commencement of the *Darwin City Council Amendment (Animal Management) By-laws 2007*.

former by-laws means the *Darwin City Council By-laws* as in force immediately before the commencement.

207 **Determinations**

A determination by the council of a charge, due, fare, fee or rent made under by-law 5 of the former by-laws in force immediately before the commencement continues in force and the amount determined may be recovered under by-law 5(4).

208 **Dog registration**

A dog registered under by-law 56(1)(a) of the former by-laws is taken to be registered under by-law 56(1)(a) and the registration remains in force until the date of expiration specified in by-law 15(3).

209 **Licensed premises**

Premises licensed under by-law 58(1)(a) of the former by-laws are taken to be licensed under by-law 58(3)(a) and the licence remains in force until the date of expiration specified in by-law 15(2).

9 **Repeal and substitution of Schedules 2 and 3**

Schedules 2 and 3

repeal, substitute

Schedule Fixed Penalties

by-law 21(2)(a)

Column 1 By-law	Column 2 Description of offence	Column 3 Amount (penalty units)
63(1)	Keeping unregistered dog or cat	1
63A(1)	Failing to comply with condition of registration	2
64(1)	Keeping more dogs or cats than as declared under by-law 58 or 62	1
65(1) or (2)	Offence in relation to dog restriction area	1
65A(1)	Failing to ensure dog is wearing dog tag	1
66(1) or (2)	Offence in relation to dog identification device	1
66A(1)	Keeping dog not properly contained	2
67(1)	Dog or cat at large	1
68(1)	Enticing dog	2
69(1)	Dog attack	
	Level 1 attack	6
	Level 2 attack	5
	Subsequent attack within 12 months	7
70(1)	Dog chasing motor vehicle	2
70A(1), (2) or (3)	Offence in relation to dog faeces	1
71(2) or (5)	Offence in relation to dog causing nuisance	2
72(1)	Abandoning dog	2
73A(2)	Failure to comply with to notice of impoundment	2
74(1) or (2)	Offence in relation to sterilisation mark	1