



# ***Dog Control Bylaw***

## ***2024***



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## **1. Title**

- 1.1 This Bylaw is the Dog Control Bylaw 2024.

## **2. Commencement**

- 2.1 This Bylaw comes into force on 28 October 2024.

## **3. Application**

- 3.1 This Bylaw applies to the Whangarei District.

# Part 1 – Preliminary provisions

## 4. Purpose

- 4.1 The purpose of this Bylaw is to give effect to Whangarei District Council's Dog Management Policy 2024 by:
- a. prohibiting dogs, whether under control or not, from specified public places;
  - b. requiring dogs, other than working dogs, to be controlled and on a leash in specified public places;
  - c. regulating and controlling dogs in any other public place;
  - d. requiring the owner of any dog that defecates in a public place or on land or premises other than those occupied by the owner to immediately remove the faeces;
  - e. requiring any female dog in season or a dog with a contagious disease to be excluded from public places;
  - f. requiring the owner of any dog which has not been kept under control on more than two occasions to be neutered; and
  - g. providing a review process for owners of dogs classified as menacing by behaviour to have that classification reviewed.

## 5. Interpretation

- 5.1 Any word used in this Bylaw that is defined in section 2 of the Dog Control Act 1996, and not included in clause 5.2 below, has, for the purposes of this Bylaw, the same meaning as in section 2 of the Dog Control Act 1996.

- 5.2 In this Bylaw, unless the context otherwise requires:

**Access way** has the meaning given by section 315 of the Local Government Act 1974.

**Act** means the Dog Control Act 1996.

**Authorised Officer** means a Whangarei District Council staff member or a Council authorised contractor in charge of a public place.

**Beach** means and includes the following:

- a. the foreshore as defined by section 2 of the Resource Management Act 1991
- b. the inter-tidal zone above mean low water springs
- c. any adjacent area that can reasonably be considered part of the beach environment including areas of sand, pebbles, shingle, dunes or coastal vegetation and includes the adjacent coastal marine.

**Cemetery** means any land or premises for the burial and/or cremation of the dead and includes a closed cemetery and urupā.

**Control** in relation to a dog, means that the owner is able to obtain an immediate and desired response from the dog.

**Council** means Whangarei District Council, and includes any person or committee delegated to act on its behalf in relation to this Bylaw.

**Council-controlled public place** means all public places owned or managed by Whangarei District Council.

**Dangerous dog** means a dog that has been classified as a dangerous dog under section 31 of the Act.

**Footpath** has the meaning given by section 315 of the Local Government Act 1974.

**Foreshore** has the meaning given by section 2 of the Resource Management Act 1991.

**Menacing dog** means a dog that has been classified as a menacing dog under section 33A of the Act.

**Neutered dog** has the meaning given by section 2 of the Act.

**Owner** has the meaning given by section 2 of the Act.

**Park/Reserve** means any land vested in or administered by Council under the provisions of the Reserves Act 1977; and/or any park, domain or recreational area under the control or ownership of Council.

**Playground** means a developed outdoor area that contains children's play equipment or objects, and includes a skatepark. Use of a playground means that the playground is currently being used or occupied by one or more persons.

**Policy** means the Whangarei District Council Dog Management Policy 2024.

**Premises** means any land, dwelling, storehouse, warehouse, shop, cellar, yard, building, or part of the same, or enclosed space separately occupied. All lands, buildings and places adjoining each other and occupied together are deemed to be the same premises.

**Private way** has the meaning given by section 315 of the Local Government Act 1974.

**Public place** has the meaning given by section 2 of the Act.

**Road** has the meaning given by section 315 of the Local Government Act 1974, except that where a road is adjacent to a park, and the land within the road and park is developed in an integrated way, the common boundary between the road and park will be reduced or extended to:

- a. a line parallel to the road that follows any physical separation between the road and park (e.g. fence or bollards); or
- b. where no physical separation exists, a line parallel to the road that follows the edge of the road carriageway, footpath or cycle track that is closest to the centre of the park.

**Sports field** means any area developed or marked out, for example those used for soccer, rugby, or rugby league, artificial turf, sports range, sports park or velodrome. Use of a sports field means that the area is being used for sports events or training for sports events by one or more persons.

**Skatepark** means a purpose-built recreational environment made for skateboarding, BMXing, rollerblading, roller skating or scootering, and includes pumptracks.

**Service lane** has the meaning given by section 315 of the Local Government Act 1974.

**Working dog** has the meaning given by section 2 of the Act.

- 5.3 Related information and links to webpages do not form part of this Bylaw and may be inserted, changed or removed without any formality.
- 5.4 The Legislation Act 2019 applies to this Bylaw.
- 5.5 To avoid doubt, compliance with this Bylaw does not remove the need to comply with all other applicable Acts, regulations, bylaws, regional or district plans, or reserve or park management plans.

## **Part 2 – Regulation and control of dogs**

### **6. Prohibition of dogs in public places**

- 6.1 The owner of any dog must ensure that their dog (including when confined in a vehicle or cage) does not enter or remain in any public place specified as prohibited in Schedule 1 or 2 of the Policy.
- 6.2 Clause 6.1 does not apply to a working dog if that dog is present in a prohibited area for the purpose of performing its functions as provided for in section 2(b) of the Act.
- 6.3 The owner of any female dog in season must ensure the dog does not enter or remain in any public place or private way unless—
  - a. that dog is confined in a vehicle or cage for the purposes of transportation; or
  - b. the owner of that dog has the permission of the occupier or person controlling the public place and complies with any reasonable conditions imposed.
- 6.4 The owner of any dog infected with a contagious disease must ensure the dog does not enter or remain in any public place or private way unless that dog is confined in a vehicle or cage for the purposes of transportation to a veterinary clinic for treatment.

### **7. Dogs on a leash in public places and private ways**

- 7.1 The owner of any dog must ensure that the dog is controlled on a leash in the public places and private ways as specified in Schedule 1 or 2 of the Policy.
- 7.2 Clause 7.1 does not apply to any dog confined in a vehicle or cage.

#### **Related information**

Working dogs include disability assist dogs, dogs kept by state departments such as police dogs and customs dogs, pest control dogs and dogs kept solely or principally as stock or herding dogs. A full list can be found in section 2 of the Act.

Working dogs are excluded from the requirement to comply with clause 7 of this Bylaw under section 10(3(c) of the Act.

Disability assist dogs are those dogs certified as disability assist dogs by the organisations listed in Schedule 5 of the Act. Disability assist dogs are not required to comply with clauses 6 or 7 of this Bylaw under section 75 of the Act.

Section 54A of the Act requires all dog owners to carry a leash at all times regardless of the provisions of this Bylaw. This section does not apply to the owner of a working dog in relation to the working dog.



## **8. Dogs off a leash in public places**

- 8.1 The owner of any dog (other than a dangerous dog) may take that dog off a leash in the public places as specified in Schedule 2 of the Policy, provided that the dog is kept under control.

## **9. Dogs in designated dog exercise areas**

- 9.1 The owner of any dog (including a dangerous dog that is muzzled) may take that dog off a leash in a designated dog exercise area as specified in Schedule 2 of the Policy, provided that dog is kept under control.

### **Related information**

Clause 2 of this Bylaw defines control as: “in relation to a dog, means that the owner is able to obtain an immediate and desired response from the dog.”

## **10. Temporary changes to dog access rules**

- 10.1 Council may make temporary changes to Schedules 1 and 2 of the Policy in relation to:
- a. leisure and cultural events (including dog friendly events);
  - b. dog training;
  - c. the protection of wildlife vulnerable to dogs;
  - d. the protection of flora vulnerable to dogs;
  - e. pest control in any park and/or beach (as defined in the Policy); or
  - f. other circumstances of a similar nature to paragraphs (a) to (e) of this subclause.
- 10.2 In making or removing a temporary change to Schedules 1 and 2 of the Policy under clause 10.1, Council must:
- a. have regard to the dog access principles in the Policy;
  - b. specify in writing the reasons, location and timeframe for which the temporary change is to apply;
  - c. publicise the temporary change in a manner that Council considers appropriate in the circumstances; and
  - d. clearly indicate the area subject to the temporary change by 1 or more clearly legible signs affixed in 1 or more conspicuous places on, or adjacent to, the place to which the temporary change relates, unless it is impracticable or unreasonable to do so.

## **11. Dog faeces**

- 11.1 When in a public place or premises, dog owners must ensure the immediate removal and disposal of their dog’s faeces. This must be done in a way that does not cause a nuisance.
- 11.2 Clause 11.1 does not apply to premises occupied by the owner.
- 11.3 Clause 11.1 does not apply to any working dog herding or driving stock on a road where the dog is kept solely or principally for the purposes of herding or driving stock.

## **12. Requirement to neuter uncontrolled dog**

- 12.1 Council may require the owner of a dog to have that dog neutered if, within a 24-month period—
- a. an infringement notice, under section 53 of the Act, has been issued at least twice; or
  - b. the dog has been impounded at least twice as a result of not being kept under control.
- 12.2 A breach of a requirement under clause 12.1 is an offence against this Bylaw.

### ***Related information***

Section 53 of the Act provides that it is an offence for a dog owner to fail to keep their dog under control and in relation to this, Schedule 1 of the Act states the infringement fee for such an offence is \$200.

Section 52(2) of the Act provides a specific description of the circumstances where a dog can be deemed to be “not under control” for the purposes of being issued an infringement notice under clause 12.1.a as well as allowing for dogs to be impounded under clause 12.1.b.

Dog owners who do not get their dog neutered in the time specified may be subject to enforcement action in accordance with clause 12.2 of this Bylaw and will still be required to neuter their dog.

## **13. Objection to requirement to neuter uncontrolled dog**

- 13.1 If a dog is required to be neutered under clause 12, the owner of that dog—
- a. may, within 14 days of receiving the notice, object to the requirement by writing to Council; and
  - b. has the right to be heard in support of their objection under clause 13.1.a.
- 13.2 Council may, when considering an objection under clause 13, uphold or rescind the requirement. In making its determination, Council must have regard to:
- a. the evidence which formed the basis for the requirement;
  - b. the matters relied upon in support of the objection; and
  - c. any other relevant matters.
- 13.3 Following its consideration of an objection under clause 13.2, Council must, as soon as practicable, give written notice to the dog owner of—
- a. its determination on the objection; and
  - b. the reasons for its determination.



## **14. Effect of requirement to neuter uncontrolled dog**

- 14.1 If a dog is required to be neutered under clause 12, the owner of that dog must, within 1 month of receiving the notice of the requirement, provide to Council a certificate issued by a veterinarian certifying that—
- the dog is or has been neutered; or
  - for reasons that are specified in the certificate, the dog will not be in a fit condition to be neutered before a date specified in the certificate.
- 14.2 If a certificate under clause 14(1)(b) is provided to Council, the owner must provide to Council, within 1 month after the date specified in that certificate, a further certificate under clause 14(1)(a).

## **15. Request for review of a menacing dog classification**

- 15.1 If a dog has been classified as menacing due to its behaviour under section 33A of the Act, the owner may request the classification be reviewed no earlier than 24 months after the date of classification, if—
- the owner provides evidence of a dog behavioural assessment report, such report to be obtained at the owner's expense; and
  - the owner has not been issued with any infringement notices in relation to the dog within the preceding 24-month period.
- 15.2 Removing the classification of a dog as menacing is at Council's discretion.

# **Part 3 – Enforcement, offence, penalties**

## **16. Enforcement**

- 16.1 Council may use its powers under the Dog Control Act 1996 and the Local Government Act 2002 to enforce this Bylaw.

## **17. Offences and penalties**

- 17.1 Every person who breaches this Bylaw commits an offence.
- 17.2 Every person who commits an offence under this Bylaw is liable to the penalties under the Dog Control Act 1996 and the Local Government Act 2002.

## ***Part 4 – Savings, transitional provisions***

### ***18. Requests for removal of menacing classification***

- 18.1 Requests for the removal of a menacing classification due to the behaviour of a dog may be made for classifications made within the 12-month period prior to this Bylaw coming into force.







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