



Kaipara District Dog Management Bylaw

June 2019

This Bylaw is made pursuant to Section 20 of the
Dog Control Act 1996 and to the Local Government Act 2002.

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Explanatory note: The Dog Management Bylaw 2019 supplements rather than duplicates other dog owner obligations, including but not limited to, the Dog Control Act 1996, Animal Welfare Act 1999 and related codes of welfare, Reserves Act 1977, Conservation Act 1987, Wildlife Act 1953, Resource Management Act 1991 and the Operative Kaipara District Council District Plan.

Council's Policy on Dogs 2019 should be read in conjunction with this Bylaw.

1 Former Bylaw Repealed

- 1.1. At the date this Bylaw comes into force, the Kaipara District Council Dog Management Bylaw 2009 shall be repealed.
- 1.2. All approvals, permits and other acts of authority that originated under the Kaipara District Council Dog Management Bylaw 2009 and all applications shall, for the purposes of this Bylaw, continue as if they had originated under this Bylaw.
- 1.3. The revocation of the Kaipara District Council Dog Management Bylaw 2009 shall not prevent any legal proceedings, criminal or civil, being taken to enforce that bylaw, and such proceedings may continue to be dealt with and completed.
- 1.4. The Kaipara District Dog Management Bylaw 2019 comes into force on 31 July 2019.

2 Interpretation

In this Bylaw, unless the context requires otherwise, the following words and phrases shall have the following meanings:

‘The Act’ unless otherwise stated means the Dog Control Act 1996.

‘Authorised Officer’ means any person authorised by the Council to act on its behalf.

‘The Bylaw’ means the Kaipara District Dog Management Bylaw.

‘Confined’ means enclosed securely in a building or tied securely to an immovable fixture on a premise or within an enclosure from which the dog cannot escape.

‘Council’ means the Kaipara District Council.

‘Disability Assist Dog’ shall have the same meaning as given to it by the Dog Control Act 1996.

Explanatory Note: As at 30 May 2019, the definition in the Dog Control Act 1996 read: ‘Disability Assist Dog’ means a dog certified by one of the organisations listed in Schedule 5 of the Dog Control Act 1996 as being a dog that has been trained (or is being trained) to assist a person with a disability.

‘District’ means the district of the Kaipara District Council.

‘Leash’ means a restraint capable of restraining the dog and held by a person/fixed to an object physically capable of restraining the dog.

‘Menacing Dog’ means any dog classified as menacing under sections 33A or 33C or 33ED of the Dog Control Act 1996.

‘Moped’ shall have the same meaning as given to it by the Land Transport Act 1998.

Explanatory Note: As at 30 May 2019, the definition in the Land Transport Act 1998 read:

‘Moped’ means a motor vehicle (other than a power-assisted pedal cycle) that has:

- a) 2 or 3 wheels; and
- b) a maximum speed not exceeding 50 kilometres per hour; and
- c) either
 - i. an engine cylinder capacity not exceeding 50 cc; or
 - ii. a power source other than a piston engine.

‘Motorcycle’ shall have the same meaning as given to it by the Land Transport Act 1998.

Explanatory Note: As at 30 May 2019, the definition in the Land Transport Act 1998 read: ‘Motorcycle’

- a) means a motor vehicle running on two wheels, or not more than three wheels when fitted with a sidecar; and
- b) includes a vehicle with motorcycle controls that is approved as a motorcycle by the NZ Transport Agency; but
- c) does not include a moped.

‘Motor Vehicle’ shall have the same meaning as given to it by the Land Transport Act 1998.

Explanatory Note: As at 30 May 2019, the definition in the Land Transport Act 1998 read:

‘Motor Vehicle’

- a) means a vehicle drawn or propelled by mechanical power; and
- b) includes a trailer; but
- c) does not include:
 - i. a vehicle running on rails; or
 - ii. a trailer (other than a trailer designed solely for the carriage of goods) that is designed and used exclusively as part of the armament of the New Zealand Defence Force; or
 - iii. a trailer running on 1 wheel and designed exclusively as a speed measuring device or for testing the wear of vehicle tyres; or
 - iv. a vehicle designed for amusement purposes and used exclusively within a place of recreation, amusement, or entertainment to which the public does not have access with motor vehicles; or
 - v. a pedestrian-controlled machine; or
 - vi. a vehicle that the NZ Transport Agency has declared under section 168A of the Land Transport Act 1998 is not a motor vehicle; or
 - vii. a mobility device

‘Neutered Dog’ means a dog that has been spayed or castrated; and does not include a dog that has been vasectomised.

‘Nuisance’ has the same meaning as defined in section 29(k) of the Health Act 1956.

Explanatory Note: As at 30 May 2019, the definition in section 29(k) of the Health Act 1956 read:

‘Nuisance’ means where any animal, or any carcass or part of a carcass, is so kept or allowed to remain as to be offensive or likely to be injurious to health.

‘Off-Leash and Under Control’ means that a dog is kept under control by means of voice commands, hand signals, whistles or other effective means that results in immediate direct control of the dog. Any dog that does not immediately return to its owner when called shall be deemed not under control.

‘On-Leash’ means that a dog is kept under control by means of a leash which is attached to the dog so that the dog cannot break loose, and which is tethered to an immovable object or held by a person physically capable of restraining and controlling the dog.

‘Owner’ in relation to any dog, shall have the same meaning as given to it in the Dog Control Act 1996.

Explanatory Note: As at 30 May 2019, the definition in the Dog Control Act 1996 read: ‘Owner’ in relation to any dog, means every person who:

- a) owns the dog; or
- b) has the dog in his or her possession, whether the dog is at large or in confinement, otherwise than for a period not exceeding 72 hours for the purpose of preventing the dog causing injury, damage, or distress, or for the sole purpose of restoring a lost dog to its owner; or
- c) the parent or guardian of a person under the age of 16 years who:
 - i) is the owner of the dog pursuant to paragraph (a) or paragraph (b); and
 - ii) is a member of the parent or guardian’s household living with and dependent on the parent or guardian;

but does not include any person who has seized or taken custody of the dog under the Dog Control Act 1996 or the Animal Welfare Act 1999 or the National Parks Act 1980 or the Te Urewera Act 2014 or the Conservation Act 1987 or any order made under the Dog Control Act 1996 or the Animal Welfare Act 1999.

‘Premises’ means any land, house, storehouse, shop, cellar, yard, building or part of the same, or enclosed space separately occupied; and all lands, buildings and places adjoining each other and occupied together shall be deemed to be the same premises.

‘Public Place’ shall have the same meaning as given to it in the Dog Control Act 1996.

Explanatory Note: As at 30 May 2019, the definition in the Dog Control Act 1996 read:

‘Public Place’

- a) means a place that, at any material time, is open to or is being used by the public, whether free or on payment of a charge, and whether any owner or occupier of the place is lawfully entitled to exclude or eject any person from that place; and

- b) includes any aircraft, hovercraft, ship or ferry or other vessel, train, or vehicle carrying or available to carry passengers for reward.

'Quad bike' means a vehicle that travels on low-pressure tires, with a seat that is straddled by the operator, along with handlebars for steering control.

'Road' shall have the same meaning as in section 315 of the Local Government Act 1974.

*Explanatory Note: As at 30 May 2019, the definition in section 315 of the Local Government Act 1974 read: **'Road'** means the whole of any land which is within a district, and which:*

- a) immediately before the commencement of this Part [Part 21 of the Local Government Act 1974] was a road or street or public highway; or
- b) immediately before the inclusion of any area in the district was a public highway within that area; or
- c) is laid out by the Council as a road or street after the commencement of this Part [Part 21 of the Local Government Act 1974]; or
- d) is vested in the Council for the purpose of a road as shown on a deposited survey plan; or
- e) is vested in the Council as a road or street pursuant to any other enactment;

and includes:

- f) except where elsewhere provided in this Part [Part 21 of the Local Government Act 1974], any accessway or service lane which before the commencement of that Part was under the control of any council or is laid out or constructed by or vested in any council as an accessway or service lane or is declared by the Minister of Works and Development as an accessway or service lane after the commencement of this Part or is declared by the Minister of Lands as an accessway or service lane on or after 01 April 1988;
- g) every square or place intended for use of the public generally, and every bridge, culvert, drain, ford, gate, building, or other thing belonging thereto or lying upon the line or within the limits thereof;

but, except as provided in the Public Works Act 1981 or in any regulations under that Act, does not include a motorway within the meaning of that Act or the Government Roding Powers Act 1989.

'Rural' means any land zoned Rural, Maori Purposes: Maori Land or Maori Purposes: Treaty Settlement Land in the Operative Kaipara District Plan.

'Under Control' in relation to a dog, means that the owner or person appearing to be in charge of the dog is able to obtain an immediate and desired response from the dog by use of a leash, voice commands, hand signals, whistles or other effective means that results in immediate direct control of the dog. Any dog that does not immediately return to its owner when called shall be deemed not under control.

'Urban' means land zoned residential, commercial or industrial in the Operative Kaipara District Plan.

‘Working Dog’ shall have the same meaning as given to it in the Dog Control Act 1996.

Explanatory Note: As at 30 May 2019, the definition in the Dog Control Act 1996 read: ‘Working Dog’ means:

- a) any disability assist dog;
- b) any dog:
 - i) kept by the Police or any constable, the New Zealand Customs Service, the Ministry of Agriculture and Forestry, the Ministry of Fisheries, or the Ministry of Defence, or any officer or employee of any such department of State solely or principally for the purposes of carrying out the functions, powers, and duties of the Police or the department of State or that constable, officer, or employee; or
 - ii) kept solely or principally for the purposes of herding or driving stock; or
 - iii) kept by the Department of Conservation or any officer or employee of that department solely or principally for the purposes of carrying out the functions, duties, and powers of that department; or
 - iv) kept solely or principally for the purposes of destroying pests or pest agents under any pest management plan under the Biosecurity Act 1993; or
 - v) kept by the Department of Corrections or any officer or employee of that department solely or principally for the purposes of carrying out the functions, duties, and powers of that department; or
 - vi) kept by the Aviation Security Service established under section 72B(2)(ca) of the Civil Aviation Act 1990, or any officer or employee of that service solely or principally for the purposes of carrying out the functions, duties, and powers of that service; or
 - vii) certified for use by the Director of Civil Defence Emergency Management for the purposes of carrying out the functions, duties, and powers conferred by the Civil Defence Emergency Management Act 2002; or
 - viii) owned by a property guard as defined in section 9 of the Private Security Personnel and Private Investigators Act 2010 or a property guard employee as defined in section 17 of that Act, and kept solely or principally for the purpose of doing the things specified in section 9(1)(a) to (c) of that Act; or
 - ix) declared by resolution of the territorial authority to be a working dog for the purposes of this Act, or any dog of a class so declared by the authority, being a dog owned by any class of persons specified in the resolution and kept solely or principally for the purposes specified in the resolution.

3 Exemptions

- 3.1 Disability Assist Dogs are exempt from prohibitions on Dog Access Areas under Clause 4.
- 3.2 Working Dogs are exempt from restrictions and prohibitions on Dog Access Areas (Clause 4) and Confinement of Dogs (Clause 7), if they are being used for the purpose for which they are kept.

4 Dog Access Areas

Dog Control Act 1996 s 20(1)(a-d)

- 4.1 Every person in charge of a dog must ensure that the dog does not enter or remain in any place identified as a Prohibited Area in Schedule 1 and Schedule 3 of Council's Policy on Dogs.
- 4.2 Every person in charge of a dog must ensure that the dog is kept on a leash and under control in any place identified as an On-leash Area in Schedule 1 and Schedule 3 of Council's Policy on Dogs.
- 4.3 Every person in charge of a dog must ensure that the dog is kept under control in any area identified as an Off-leash Area in Schedule 1 and Schedule 3 of Council's Policy on Dogs.

5 Changes to Dog Management Bylaw

Dog Control Act 1996 s 10(7),(8),&(8A)

- 5.1 This Bylaw may be amended at any time using the "special consultative procedure" under the Local Government Act 2002 and must be amended to be consistent with any amendment to the Council's Policy on Dogs.

6 Shelter and Housing

Dog Control Act 1996 s 20(1)(e)

- 6.1 Dogs must have access to dry and shaded shelter. This:
 - a) applies when a dog is on land or premises owned or occupied by the dog's owner or the person in charge of the dog; but
 - b) does not apply when a dog is temporarily tethered or confined.
- 6.2 When keeping a dog in accordance with sub-clause 6.1, the owner of, and every person in charge of, the dog must:
 - a) ensure that the dog has access at all times to an area (a lying area) that:
 - i. is large enough to allow the dog to stand up, turn around, and lie down in a natural position;
 - ii. is fully shaded;
 - iii. is dry;
 - iv. is ventilated; and
 - v. provides the dog with protection from extremes of heat and cold;
 - b) ensure that the dog has access at all times to water;

- c) ensure that the dog has access at all times to an area in which to urinate and defecate away from its lying area; and
- d) ensure that faeces or urine do not accumulate in any area in which the dog is kept.

7 Confinement of Dogs

Dog Control Act 1996 s 20(1)(g)

- 7.1 The person in charge of a dog shall, from half an hour after sunset until half an hour before sunrise, keep the dog tied up or otherwise confined, unless the dog is on a leash or under continuous control.

8 Removal of Faeces

Dog Control Act 1996 s 20(1)(h)

- 8.1 The person in charge of a dog that defecates in a public place or on private land or premises where the occupier does not consent, must immediately remove the faeces and hygienically dispose of it e.g. by placing it in an appropriate waste container.
- 8.2 This clause does not apply to working dogs if they are being used for the purpose for which they are kept and are not within an urban area, beach or Council administered reserve.
- 8.3 It is not a requirement that an Authorised Officer sight the offence being committed when issuing an infringement under Clause 8 of this bylaw. If there is sufficient evidence based on a member of the public witnessing the event, Council may infringe the owner of that dog under the Act.

Explanatory Note: Clause 8 does not apply to land or premises occupied by the owner of the dog and which is not a public place.

9 Bitches in Season

Dog Control Act 1996 s20(1)(i)

- 9.1 No bitch in season is permitted in any public place, other than when being transported to a registered veterinary clinic for treatment.
- 9.2 Every person in charge of a bitch in season must ensure that the bitch is confined but adequately exercised on private land or premises.

10 Impounding

Dog Control Act 1996 s20(1)(j)

- 10.1 An Authorised Officer may impound any dog:
- a) that is unattended in a public place and which is causing a nuisance, disturbance or distress.
 - b) straying in a public place or onto private property, whether or not it is causing a nuisance, disturbance or distress.
 - c) that is not confined and is not under the immediate control of its owner.
- 10.2 Full compliance with the Act, Council's Policy on Dogs and Council's Dog Management Bylaw is required before any dog may be released from impoundment. For avoidance of doubt, this includes the neutering of menacing dogs as required by Council's Policy on Dogs.

11 Neutering

Dog Control Act 1996 s 20(1)(k)&(l)

- 11.1 Any dog owned by an owner classified as Probationary under the Act must be neutered.
- 11.2 Where any dog has been impounded on more than two occasions, Council will require the neutering of that dog prior to the dog's release from the pound.

12 Dogs In or On Vehicles

Dog Control Act 1996 s 20(1)(l)

- 12.1 A person who leaves a dog in a stationary vehicle must ensure that the dog does not display signs of shade-seeking behaviour, as well as one or more of the following signs consistent with heat stress:

- a) excessive panting;
- b) excessive drooling;
- c) hyperventilation.

Shade-seeking means that the dog is compulsively seeking out and placing, or attempting to place, itself in the shadiest, coolest part of the vehicle that it can access.

- 12.2 The owner of, and every person in charge of, a dog transported on the open deck or open trailer of a moving motor vehicle (other than a moped, a motorcycle, or a quad bike) on a public road must:
- a) ensure that the dog is secured in a way that prevents it from falling off or hanging off the open deck or open trailer (for example, by using a tether or a cage); and
 - b) if the dog is secured by a tether, ensure that the tether is short enough to prevent the dog's legs from reaching over the sides of the open deck of the vehicle or open trailer, but long enough to allow the dog to stand or lie down in a natural position.
- 12.3 Clause 12.2 does not apply when working dogs are unsecured on the open deck or open trailer of a moving motor vehicle on a public road while involved in driving or managing livestock (for example, when moving livestock from one paddock to another that is down the road).
- 12.4 No person shall leave a dog in or on any unattended motor vehicle unless that person takes measures to render it impossible for the dog to leave the vehicle, or cause a nuisance to the public.

13 Diseased Dogs

Dog Control Act 1996 s 20(1)(l)

- 13.1 No dog infected with a contagious disease may be permitted in any public place.
- 13.2 Every person in charge of a dog must ensure that any dog infected with a contagious disease is confined on their land or premises in such a manner that it cannot leave the land or premises, other than when being transported to a registered veterinary clinic for treatment.

14 Nuisance

Dog Control Act 1996 s 20(1)(f, l)

- 14.1 No person shall cause any dog to become unmanageable or aggressive.
- 14.2 A person must not keep a dog on any land or premises if the dog causes any nuisance or disturbance, is injurious to health, or prevents lawful access to land or premises.
- 14.3 A person in charge of a dog must ensure that when the dog is accommodated and/or confined on a property the dog is prevented from entering into or onto any adjoining land.
- 14.4 If any dog causes any nuisance or disturbance or is injurious to health, an Authorised Officer may, by notice in writing, require within a specified time the owner of the dog to:
- a) reduce the number of dogs kept on the owner's premises;
 - b) construct, reconstruct, alter or otherwise improve the kennels or other accommodation used to house, contain or restrain the dog;
 - c) require the dog to be tied up or otherwise confined during specified periods;
 - d) take action to minimise or resolve the nuisance.

Explanatory note: Excessive barking or howling shall be addressed under section 55 of the Dog Control Act 1996, not this bylaw.

15 Number of Dogs

Dog Control Act 1996 s 20(1)(f)

- 15.1 No more than two dogs may be kept at an urban property, unless a permit to do so has been applied for on the prescribed form and upon payment of the prescribed fee and granted by the Council. Council may specify conditions when granting a permit allowing more than two dogs on an urban property. Approval of such permit will be at Council's discretion.
- 15.2 The Council may by resolution fix a fee for a permit issued in respect to sub-clause 15.1. Such fee shall be additional to any Registration Fees.
- 15.3 Where a dog owner is in breach of sub-clause 15.1 or a permit or condition of a permit issued in respect to sub-clause 15.1, Council may impound any additional dogs on the property. This may be extended to include a bitch in whelp where this is deemed necessary for the well-being of the puppies.

Explanatory note: Conditions of a permit issued in respect to sub-clause 15.1 may include but are not limited to:

- A limit on the period of time for which the permit is valid;
- The right to revoke or review the permit at any time; and
- Requirements to meet all of the dogs' physical needs.

16 Offences and Penalties

- 16.1 Every person who fails to comply with the requirements of this Bylaw commits an offence and is liable to a penalty under the Act and the Local Government Act 2002.