

Appendix 1

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DOG MANAGEMENT PLAN

MUNICIPAL AREA OF SORELL - 2017

To be reviewed prior or during April 2022 and advertised for public consultation before 01st September 2022.

INDEX

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Index	Page 2
Introduction	Page 3
Dog Management Plan – Process	Page 3
Dog Management Plan – Review	Page 3
Objectives	Page 3
Responsible Dog Ownership	Page 4
Fees	Page 4
Registration Fees	Page 5
Kennel Licences	Page 5
- How will Council process the Application	Page 6
- How will Council reach a Decision	Page 6
- Can Council Refuse to Grant, Renew or Cancel a Licence	Page 6
- What if Council Refuses to Grant, or Renew, or Intends to Cancel A Licence	Page 7
- Renewal of Licence	Page 7
- Can the Licence be transferred to Another Person or Property	Page 7
Penalties	Page 8
Dangerous Dogs	Page 8
Complaints & Nuisance Dogs	Page 10
Provision of Declared Areas	Page 11
Off the Lead Dog Exercise Areas	Page 11
Training Areas	Page 12
Prohibited Areas	Page 12
Prohibited Public Areas	Page 12
Dog Restricted Areas	Page 12
Impounding of Dogs	Page 13
Signage	Page 14
Sick & Injured Animals	Page 14
Dog Control Act	Page 14

Introduction

The Dog Control Act 2000 came into effect on 2 April 2001. The later legislation has repealed the Dog Act 1987, and therefore, becomes the primary legislation in this area.

Section 7 of the Dog Control Act 2000 requires Council to develop and implement a policy relating to dog management within its municipal area.

- A Dog Management Plan is to include the following:
 - A code relating to responsible ownership of dogs.
 - The provision of declared areas.
 - A fee structure.
 - Any other relevant matter.

Dog Management Plan – Process

- That Council is to:
 - Invite public submissions relating to a proposed Dog Management Plan, and
 - Consult with any relevant body or organisation, and
 - Consider any submissions and result of any consultation before finalising the Plan.

Dog Management Plan – Review

- A Council is to review its Dog Management Plan at least once every five years.
- In reviewing its Dog Management Plan, a Council is to take the actions referred to in that relevant section.

Objectives

- Ensure that dogs in the community are well cared for.
- Ensure that dog owners are able to maximise their enjoyment of their animals with access to suitable public open space areas.
- Ensure that owner's activities and those of their dogs do not adversely affect the rest of the community or the environment.
- Identify and prioritise current and future animal management issues.
- Develop a plan to address identified animal management issues.
- Invite Submissions from:
 - The Community, Animal Welfare Agencies, Conservation Groups, Veterinarians, and Regulatory Bodies in the consultation process to allow Council to make an informed decision.

Responsible Dog Ownership

- To promote and encourage responsible dog ownership. Provide incentives to individuals who demonstrate responsible ownership.
- Recognising that dogs and dog owners are an integral part of the community, contributing to its quality of life and ensuring that the needs of dogs and their owners are serviced whilst recognising the differing needs of all members of the community.
- To encourage the training and education of dogs and their owners promoting responsible ownership within the community.
- Design and implement a publicity campaign to provide dog owners with information relating to responsible ownership, e.g. brochures, flyers, local newspaper articles.
- The owner or person in charge of a dog must ensure that the dog is not at large.
- A person carrying on primary production relating to livestock on rural land or any other person acting under his or her authority may destroy any dog at large found on that land.

Fees

Council is to set their own fee structure reflecting the costs of Dog Management control. It is expected that dog owners pay a reasonable portion of the costs incurred by Council.

1. The entire system of Dog Control throughout the municipality is the ability of Council Officers to identify a dog's owner via the dog registration system which is a vital link needed to enforce the regulations and provisions of the Dog Control Act 2000.
2. All dogs must be registered and microchipped at the age of 6 months and this must be done by the end of the month in which the dog becomes 6 months old. An application for registration is required to be completed and submitted to Council. The registration year is from 1st July to 30th June the following year.
3. The Sorell Council will continue to provide reduced registration fees for desexed dogs in order to reduce the instances of unwanted or abandoned dogs and substantially reduced fees for persons registering their dog before 31st July.
4. A discount will also be offered to pensioners and people who hold a health care card for one dog only; any other dog incurs standard registration fees.
5. All relevant fees will be reviewed annually. The Sorell Council will take into consideration other Council's proposed fee structure to ensure all related dog fees maintain a level of consistency.
6. The Sorell Council will transfer dog registrations from other Tasmanian Council's at no cost to the dog owner, provided the registration is for the same registration period.

7. All dogs impounded will incur an impounding fee and a maintenance fee for every day impounded. An infringement notice will be issued in accordance with the Dog Control Act 2000 Section 16(1) "Failure to ensure a dog is not at large" –1 Penalty unit for all impounded dogs.

Registration Fees

All registration fees to be reviewed annually.

Kennel Licences

Where a person keeps more than two dogs (or, in the case of working dogs, 4 dogs) on any property, they must apply to Council for a Kennel Licence.

A notice of intention to apply for a kennel licence must be published in the public notices section of the Mercury Newspaper on any day except Sunday in the prescribed format.

Any person residing or owning land within 200 metres of the boundary of the property to which a licence relates may object to the granting of the licence within 14 days after the notice is published.

The objection is to be in writing and set out the reasons for the objection.

How will Council Process the Application?

Council cannot consider the application until twenty eight (28) days after the publication of the "Notice of Intention to Apply for Kennel Licence".

A Council Officer will inspect the property including all kennels and yards for suitability.

The application will not be considered until all dogs kept on the property are registered.

How will Council reach a Decision?

In reaching a decision as to whether to grant a licence and if so what conditions, if any, shall apply to the licence, the General Manager may take into account any relevant objections.

The site inspection report will be considered together with any other matters that relate to public health and environmental laws.

The likelihood of the dogs creating a nuisance by barking or otherwise will be taken into consideration.

Where the application is successful, the licence will be issued together with a covering letter drawing the licence holder's attention to the conditions that apply to the licence, and notification of the date that the licence expires.

Where a licence is refused, the applicant will receive written notification.

Can Council Refuse to Grant, Renew or Cancel a Licence?

The General Manager on the recommendation of an Authorised Officer may refuse to grant a licence if the General Manager is of the opinion that:-

- The premises are unfit for the purpose of keeping the number and type of dogs applied for;
- It would be in the public interest not to grant the licence.

Renewal of a licence may be refused if Council is of the opinion that:-

- The requirements of the Dog Control Act and the Public Health Act are not being complied with;
- The condition of the premises is creating a nuisance;
- The requirements of the Dog Control Regulations are not being complied with;
- It is in the public interest that the licence not be renewed.

A licence may be cancelled at any time if Council is satisfied that:-

- The premises do not comply with the Dog Control Regulations;
- Laws relating to public health and environmental protection are not being complied with.
- That the conditions of the licence are not being complied with.

What if Council Refuses to Grant, or Renew, or Intends to Cancel a Licence?

You may appeal to a magistrate. An appeal shall-

- Be instituted by giving written notice to the Clerk of Petty Sessions on the prescribed form;
- Be accompanied by the prescribed fee;
- Be made within the prescribed time (21 days of the date of Council notification); and
- Otherwise, be instituted in the prescribed manner.

At the hearing of an appeal, the magistrate may-

- Dismiss the appeal; or
- Direct the Council to grant or renew the licence;
- Quash the Council's decision to cancel the licence, subject to any conditions the magistrate thinks fit;
- Council must comply with any directions given to it by the magistrate;
- The magistrate's decision is final.

Renewal of Licence

Kennel licences expire on the 30th day of June each year.

Licences may be renewed for a further twelve months upon payment of the prescribed fee and a satisfactory inspection of the premises by an Authorised Officer.

Can the Licence be transferred to Another Person or Property?

Licences are not transferable from one person to another, nor are they transferable from property to property, therefore if you:-

- Sell your property and the new owner requires a kennel licence; or
- You move to another property and wish to retain your licence;

A new application will need to be submitted.

An applicant will need to meet the costs of publishing their intention to apply for a licence.

Penalties

The Act states that a person who keeps more than two dogs (or in the case of working dogs, four dogs) six months of age or over, on any premises not being licenced premises, is guilty of an offence and is liable on summary conviction to a maximum fine of 5 penalty units.

Normally an Authorised Officer would issue an Infringement Notice for unlicensed premises (1 penalty unit). Non-payment of this fine would then involve the previously mentioned legal action being taken.

Dangerous Dogs

The Dog Control Act 2000 substantially increases the penalties and restrictions on owners of dogs declared dangerous.

Classifying dogs as dangerous is an effective method of controlling individual dogs that have demonstrated aggressive or dangerous behaviour. Council will, where appropriate, classify dogs as dangerous.

A dog may be considered dangerous because of an obvious act or incident in which it has threatened, attacked, and in some cases, caused serious injury or death to an animal or person. This physical act is an expression of aggression and in most cases, this aggression has been contributed to by human intervention. There are several triggers for aggression in dogs. They are:

- Territorial aggression
- Protective aggression
- Fear aggression
- Predation aggression
- Dominance aggression
- Learned aggression

No matter what the trigger, or the level of human intervention, it is not an acceptable community standard that dogs who display aggression be allowed to be in a position to carry out the physical act. Council in its commitment to ensuring a safer environment endorses legislation in relation to dangerous dogs. A General Manager of a council may declare a dog to be dangerous dog if:

- a) The dog causes serious injury to a person or another animal: or
- b) There is a reason to believe the dog is likely to cause serious injury to a person or another animal.

The owner of a dog declared to be dangerous has the right to appeal the decision to a Magistrate; the appeal must be lodged within 14 days of notification of the declaration.

The owner or person in charge of a dangerous dog must be at least 18 years of age, must ensure that whilst the dog is in public place, is on a lead not exceeding two metres, is held by hand and is sufficient to control and restrain the dog. The dog must be muzzled and unable to bite a person or animal and when not in a public place housed in an enclosure that complies with the prescribed requirements. The dog must at all times wear an approved collar supplied by the Council.

The owner of a dog declared to be dangerous must ensure that the dog is de-sexed and implanted with an approved microchip within 28 days after notification that the dog has been declared dangerous.

The owner or person in charge of a dangerous dog must ensure that appropriate signs of an approved type warning of the presence of a dangerous dog are displayed at every entrance to the premises on which the dog is kept. These signs are only obtainable through Council.

The cost associated with the purchasing of prescribed dog collar, micro-chipping, d-sexing and appropriate signage is the responsibility of the dog owner.

Any premises on which a declared dangerous dog is being kept will be inspected on a regular basis by an Authorised Officer to ensure that the dog is housed correctly and that the owner is complying with the requirements as defined in the Dog Control Act 2000.

Appropriate legal action will be taken against any dangerous dog owner not complying with the regulations.

Restricted Breed Dogs

Dogs of a breed which have been banned from importation into Australia may be declared restricted breed dogs. Of the breeds banned from importation, only the American pit bull terrier or pit bull terrier is understood to be in Tasmania.

Council officers will determine whether a dog is a restricted breed dog based on approved guidelines, which will include key characteristics of dog breeds such as height, weight, coat, colouration, tail carriage, facial and body features.

Owners can appeal the declaration of their dog as a restricted breed dog to the Magistrates Court (Administrative Appeals Division) within 28 days of the service of the declaration. In such an appeal, the onus is on the owner to prove that the dog is not a restricted breed.

The owner or person in charge of a restricted breed dog must be at least 18 years of age, must ensure that whilst the dog is in public place, is on a lead not exceeding two metres, is held by hand and is sufficient to control and restrain the dog. The dog must be muzzled and unable to bite a person or animal. The dog must at all times wear an approved collar supplied by the Council.

The owner of a dog declared to be a restricted breed must ensure that the dog is d-sexed and implanted with an approved microchip within 28 days after notification that the dog has been declared.

The owner or person in charge of a restricted breed dog must ensure that appropriate signs of an approved type warning of the presence of a restricted breed dog are displayed at every entrance to the premises on which the dog is kept. These signs are only obtainable through Council.

The cost associated with the purchasing of prescribed dog collar, micro-chipping, d-sexing and appropriate signage is the responsibility of the dog owner.

Complaints

With an ever-increasing urban animal population, there will invariably be associated problems with them. It is expected that with a balance of proactive and reactive education and enforcement this will minimize the impact of inappropriate dog behaviour.

Council recognizes the right of community members to seek assistance in dealing with nuisances created by dogs. Council represents the community and ensures that quality services are provided. This is best achieved by open communication between Council staff, the complainant, and the dog owner/s.

To this end, Animal Management Officer's will not respond to complaints made anonymously. Council requires all complaints to be made in writing stating the complainants name, address and telephone number. It is essential that staff have access to this information so they may clarify details, seek further information, and to advise outcomes of investigations onto the complainant. This information is strictly confidential and not passed on to any other member of the community.

Nuisance Dogs

Council currently spends large amounts of time associated with the problems caused by nuisance dogs and in particular the issue of excessive barking. Council's preferred option is to consult with both the complainant and the dog owner addressing the issues why the dog is barking and offering advice and Council resources, which often resolves the issues quickly without the need for lengthy legal proceedings, which are costly and time consuming. The most important issue is for the owner to be made aware of the nuisance and to be advised as to the best methods available to alleviate the problem.

Upon receipt of a complaint regarding a nuisance dog, the following procedure is followed:

First Stage

Council officers will make contact with the complainant and the owner of the dog to discuss the matter and strategies may be discussed to reduce or minimise the nuisance. Council officers may request that the complainant keep an accurate record of the barking over a period to assist council in determining a pattern of barking, this record may be used as evidence later if the matter went to Court.

Second Stage

The owner of the dog is given a reasonable amount of time, normally two weeks to address the nuisance and if requested an Authorised Officer may inspect the property and offer advice to overcome the problem such as the use of an anti bark collar or other methods. The aim of the discussion is to reach agreement acceptable to both the complainant and the dog owner without the need for legal action.

Third Stage

If no attempt has been made by, the dog owner to alleviate the problem or no contact made with Council Officers the complainant is requested to complete the appropriate form in accordance with Section 47(2) (a) of the Dog Control Act 2000. The person is required to pay a fee that will be refunded if their complaint has substance. After receipt of an official complaint, Council Officers will investigate the complaint speaking to neighbours in the vicinity and inspecting the offending property at various times to assess if the dog is considered a nuisance.

The complainant must also be prepared to appear in court as a witness if legal proceedings are instigated. It is only by this means that formal action can be initiated.

If a complainant is not prepared to lodge a Formal Notice of Complaint and / or not prepared to appear as a witness in court, Animal Management Officer's may determine that no further action will be taken in regard to the complaint.

If the complaint is found to be genuine, the Council may institute proceedings for an offence under Section 46 of the Dog Control Act 2000.

The owner or person in charge of a dog must not permit the dog to become or create a nuisance. A dog is a nuisance if:

- a) It behaves in a manner that is injurious or dangerous to the health of any persons, or
- b) It creates a noise by barking or otherwise, it persistently occurs or continues to such an extent that it unreasonably interferes with the peace, comfort or convenience of any person or persons.

Provision of Declared Areas

Maps of Dog exercise areas, restricted areas and prohibited areas can be found on the Sorell Council Website (www.sorell.tas.gov.au)

The Dog Control Act sets out a procedure for the declaration of areas in which there are particular restrictions. The process involved before the declaration of any areas will include the advertising of the proposed area on at least two occasions in the public notices section of the newspaper inviting the public and any appropriate body or organisation to submit in writing any comments or objections relating to a proposed declared area.

In assessment of any proposed declared areas, Council will consider the following criteria.

- Access.
- Environmental Impacts.
- Public safety issues.
- Land use.
- Proximity to residential areas.

Council will consider any submissions and the results of any consultation before finalising any policy in relation to declared areas. Investigation of suitable areas will be ongoing.

Off the Lead Dog Exercise Area

(In these areas dogs are allowed off a lead but under effective control)

The following areas are areas where dogs can be exercised off the lead provided they remain under the effective control of the owner at all times.

A dog off the lead and under effective control is defined as in close proximity and within site of the person and that person must if so directed by an Authorised Officer demonstrate that the dog is immediately responsive to that persons commands.

Training Areas

(In these areas dogs are allowed off a lead but under effective control)

Council may declare an area to be area where dogs may be trained subject to any specified conditions.

Specific exercise and training areas will be considered by Council upon written request from dog obedience trainers, registered clubs and / or community representatives.

Prohibited Areas

(In these areas dogs are not allowed at all times)

Council in consultation with Parks and Wildlife Service may declare an area containing sensitive habitat for native wildlife to be an area where dogs are prohibited from entering.

Prohibited Public Areas

(In these areas, dogs are not allowed at all time)

A person must not take a dog into:

- Any grounds of a school, pre-school, kindergarten, crèche or any other place where without the permission of the person in charge of the premises.
- Any shopping centre or shop.
- Any grounds of a public swimming pool.
- Any playing area of a sports ground on which sport is being played.
- Any areas within 10 metres of a children's playground.

These restrictions do not apply to any guide dog or hearing dog.

Dog-Restricted Areas

(Specified time, month, day or season on or off lead)

In these areas, dogs are not allowed during the times and/or dates specified. These are areas where it is considered that a significant conflict exists, however this is limited to particular times and/or dates. In order to prevent danger, and to minimize distress and nuisance, dogs shall be prohibited from these areas during the times and/or dates specified.

A Council may declare an area to be an area where dogs, other than guide dogs or hearing dogs, are restricted from entering. Restricted areas may also include particular times during a year or specified hours.

A Council may also declare an on lead area, where dogs may be walked but must be kept on lead at all times.

Impounding of Dogs

All dogs impounded will incur a \$10.00 impounding fee and a \$10.00 maintenance fee for every day impounded. An infringement notice will be issued in accordance with the Dog Control Act 2000 Section 16(1) "Failure to ensure a dog is not at large" – Penalty. (One penalty unit)

Options for dealing with this infringement notice:

You must within 28 days of the date of service of this notice do one of the following:

- pay the infringement notice in full;
- apply to the General Manager for the withdrawal of the infringement notice;
- apply to the General Manager for a variation of payment conditions; or
- lodge a notice of election for a court hearing with the General Manager.

If you do not lodge a notice of election for a court hearing within 28 days of the service of the infringement notice and the infringement notice is not withdrawn, you will be taken to be convicted of the offence(s) set out in the infringement notice. If you are taken to be convicted and do not pay, either in full or as arranged under a variation of payment conditions, the monetary penalty may be enforced under the *Monetary Penalties Enforcement Act 2005*.

Note: After referral to the Director, Monetary Penalties Enforcement Service, Costs will be added which will be in addition to the unpaid infringement amount.

Elect a court hearing

If you wish to have the offence(s) to which this infringement notice relates determined by a court, or you wish to argue that the penalty should be reduced, you must lodge a written notice to elect a court hearing with the General Manager.

How to Pay

The Notice may be paid at the Sorell Council Offices, between 8.00am and 4.45pm on Council working days.

Application for Payment Variation

If you need more time to pay, you can apply to make payment arrangements by writing to the General Manager, Sorell Council, PO Box 126, Sorell 7172.

Infringement issue enquiries

For enquiries relating to the issue of this infringement notice call (03 62690000).

Where a dog is recovered from Council's pound it shall not be released until it is registered and all registration and pound fees paid.

If a dog is seized and its owner is not identifiable, the dog will be impounded at the Sorell Council pound for a minimum of three Council working days. If the dog is not reclaimed within this period, the dog becomes the property of Council.

If a dog is seized and its owner is, identifiable the General Manager is to notify in writing the owner of the dog that the dog has been impounded. If after five Council working days from the date the notice is issued, the owner does not reclaim the dog it becomes the property of Council.

Signage

The Sorell Council will erect appropriate signage to identify all exercise, training, prohibited and restricted areas.

Sick & Injured Animals

Enquiries regarding sick and injured animals should be directed to the RSPCA or the animal taken to a veterinarian practice.

Dog Control Act 2000

A full copy of the Act can be found on the web site at <http://www.dpac.tas.gov.au/divisions/lgo/legislation/legislation.html>