

TOWNSVILLE CITY COUNCIL

LOCAL LAW NO. 10

(KEEPING AND CONTROL OF ANIMALS)

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PART 1-PRELIMINARY

1. Citation

1.1 This local law may be cited as Local Law No 10 (Keeping and Control of Animals).

2. Objects

2.1 The objects of this local law are to regulate the keeping of animals-

- (a) to protect the community against risk of injury and damage;
- (b) to ensure that animals do not create a nuisance, or a hazard to health or safety;
- (c) to prevent pollution and other environmental damage resulting from the keeping of animals and to protect the amenity of the local environment; and
- (d) to ensure that animals are kept and used in a way that is consistent with the rights and expectations of the local community.

3. Definitions

3.1 In this local law-

- (a) "**animal**" includes a fish, bird or reptile but does not include an animal of a species excluded by local law policy from the application of this local law;
- (b) "**cattery**" means a place used for the keeping, boarding or breeding of cats on a commercial basis;
- (c) "**dangerous dog**" means a dog;
 - (i) of a species classified by local law policy as a dangerous dog, or
 - (ii) declared under this local law to be a dangerous dog
- (d) "**identifying tag**" means a mark or object to identify an animal including, for example -
 - (a) a metal or plastic disc or plate;
 - (b) a collar;
 - (c) a tattoo or brand; or
 - (d) an implant bearing an electronic code;
- (e) "**keeper**" of an animal means--
 - (a) a person who has or appears to have immediate custody and control of the animal;

- (b) if a person who has the immediate custody and control of an animal is a minor, the minor's parent or guardian;
- (c) a person who keeps or harbours an animal, or has the animal in their possession for the time being;
- (d) a person who occupies any house or premises in which the animal is usually kept or permitted to remain; and
- (e) a person who is the lessee of the animal.
- (f) **"kennel"** means a place at which more than four (4) dogs are kept, boarded, bred, or trained;
- (g) **"pet shop"** means a place other than residential premises, at which animals are offered for sale.

4. Relationship with other laws

4.1 This local law is in addition to, and does not derogate from---

- (a) laws regulating the use or development of land; or
- (b) other laws about the keeping or control of animals or animals of a particular species.

5. Local law policies

5.1 The Local Government may by local law policy:

- (a) require a permit for the keeping of animals.
- (b) require animals to be registered
- (c) prescribe minimum standards for the keeping of animals or particular species of animal.
- (d) determine the number and nature of complaints before actioning.
- (e) fix the time when an animal pound will be open for the reception and release of animals.
- (f) fix the time for the sale of animals from the pound.
- (g) fix the scale of impounding fees to be paid on the release of impounded animals.
- (h) lay down conditions to be complied with by persons who offer animals or a particular species of animal for sale and to specify any exemptions.
- (i) declare areas to be free running dog exercise areas.
- (j) prohibit particular species of animals from being in specified areas.

PART 2-KEEPING OF ANIMALS

Division 1 - Animals for which permit is required

6. Requirement to hold permit

- 6.1 A local law policy may require a permit for the keeping of animals.
- 6.2 Requirements for a permit may be imposed by reference to one (1) or more of the following
- (a) the species, breed, age or sex of the animals;
 - (b) the number of animals to be kept;
 - (c) the area, or part of the area, in which the animals are to be kept; and
 - (d) the nature of the premises in which the animals are to be kept.

7. Obligation to hold permit

- 7.1 A person must not keep an animal for which a permit is required unless the person holds a current permit from the local government authorising the person to keep the animal.

Maximum penalty-20 penalty units.

- 7.2 A person must not contravene a condition of a permit.

Maximum penalty 20 penalty units.

Division 2 - Permits

8. Criteria for granting permits

- 8.1 In deciding whether to grant a permit authorising a person to keep animals the local government may have regard to-

- (a) the physical suitability of the land for the proposed use;
- (b) the structural suitability of enclosures in which the animals are to be kept;
- (c) the likelihood of the animals causing nuisance, inconvenience or annoyance to the occupiers of adjoining land;
- (d) the likely effect on the amenity of the surrounding area;
- (e) the likely effect on the local environment and any possible pollution or other environmental damage; and
- (f) other factors that may be relevant in the circumstances of the particular case.

9. Conditions of permits

- 9.1 The local government may grant a permit under this local law on conditions it considers appropriate.

9.2 The conditions may, for example-

- (a) require the holder of the permit to care for the animals in accordance with appropriate standards;
- (b) require that the animals be kept in enclosures that comply with specified structural requirements;
- (c) require the holder of the permit to comply with specified standards of hygiene;
- (d) require the holder of the permit to ensure that the animals wear or display an appropriate identifying tag;
- (e) require the holder of the permit to ensure that the animals do not cause nuisance, inconvenience or annoyance to others; and
- (f) require the holder of the permit to take specified action to protect against possible harm to the local environment.

10. Term of permit

10.1 A permit is granted for a term fixed under the relevant local law policy.

Division 3 - Animals for which registration is required

11. Requirement to register animal

11.1 The local law policy may require the keeper of an animal of a particular species or breed to have the animal registered.

12. Obligation to register

12.1 A keeper must not keep an animal for which registration is required unless the keeper holds a current certificate of registration for the animal from the local government.

Maximum penalty-20 penalty units.

12.2 A keeper of a registered animal must

- (a) ensure that the animal carries the identifying tag at all times;
- (b) where an identifying tag is lost or destroyed, notify the local government within fourteen (14) days; and
- (c) where ownership or address changes, notify the local government within fourteen (14) days

Maximum penalty-20 penalty units.

Division 4 - Commercial operations

13. Pet shops, catteries and kennels

13.1 A person must not use land within the area as a pet shop, cattery or kennel unless the person holds a current permit from the local government authorising the use of the land for the purpose.

Maximum penalty-20 penalty units.

14. Obligation to comply with permit

14.1 A person must not contravene a condition of a permit authorising the use of land for the purpose of a pet shop, cattery or kennel.

Maximum penalty 20 penalty units.

Division 5--Minimum standards

15. Prescription of minimum standards by local law policy

15.1 A local law policy may prescribe minimum standards for the keeping of animals or a particular species of animal.

15.2 The local law policy may, for example-

- (a) require the regular cleaning of enclosures and the disposal of waste;
- (b) require adequate provision of food and water;
- (c) require the provision of adequate space for the animals;
- (d) provide for the separation of enclosures in which animals are kept from places used for human habitation or the preparation of food, or from watercourses or water catchment areas;
- (e) make provision for the maintenance of proper standards of cleanliness and hygiene; and
- (f) make provision for the control and management of animals.

16. Obligation to comply with minimum standards

16.1 A keeper of an animal must ensure compliance with relevant minimum standards prescribed by the local law policy.

Maximum penalty 20 penalty units.

16.2 If a person is required to hold a permit to keep an animal, the obligation to comply with the minimum standards prescribed by local law policy is in addition to obligations imposed by conditions of the permit.

PART 3---CONTROL OF ANIMALS

Division 1 - Animals in public places

17. Animal must be under effective control

17.1 A keeper must not bring or permit an animal to be brought into a public place unless the animal is under effective control.

Maximum penalty-20 penalty units.

17.2 A dog is not regarded as being under effective control unless -

- (a) the keeper is physically able to control the dog, and is holding the dog by a chain, cord or leash; or
- (b) the dog is secured and restrained to a fixed object by chain, cord or leash and is under the continuous supervision of a keeper who is physically able to control the dog; or
- (c) the dog is participating in an obedience trial, or training for an obedience trial, under the supervision of an organisation recognised by the local government for the purposes of this section; or
- (d) the dog is being exhibited at an exhibition under the supervision of an organisation recognised by the local government for the purposes of this section.

17.3 If an animal in a public place is not under effective control, an authorised person may seize and impound the animal.

18. Dogs on heat to be excluded from public places

18.1 A keeper must not bring a dog that is on heat into a public place.

18.2 If a dog goes on heat in a public place, the keeper must immediately remove the dog.

Maximum penalty-20 penalty units.

19. Person in charge of dog to clean up dog faeces

19.1 If a dog defecates in a public place, the keeper of a dog must immediately remove and dispose of the faeces in a sanitary way.

19.2 If a keeper does not remove and dispose of the faeces immediately, the keeper commits an offence.

Maximum penalty-20 penalty units.

Division 2 - Duty to provide proper enclosure

20. Duty to provide proper enclosure

20.1 A keeper must maintain a fence or enclosure which prevents the animal from wandering or escaping from the keepers land.

Maximum penalty 20 penalty units.

20.2 If an animal is found not under effective control in a place other than a public place, the keeper of the animal is guilty of an offence.

Maximum penalty-20 penalty units.

Division 3 - Nuisances

21. Duty to avoid nuisances

21.1 An animal must not be kept on any land if-

- (a) the animal creates a nuisance to persons or animals on/or outside the land.
- (b) it poses a danger to the health or safety of any person or animal.
- (c) it acts in a manner that creates reasonable apprehension in the mind of a person of a threat to their health or safety; or
- (d) it behaves in a manner contrary to the general interests of the community.

21.2 The local law policy may determine the number, and nature of complaints that may be received by the local government before action can be effected.

21.3 The local government may, on receiving a complaint of a contravention of section 21.1 give a written notice to a keeper of the animal requiring the person to take specified action to prevent further contravention or to get rid of the animal.

21.4 A person must not fail to comply with a notice under section 21.3 within the time allowed in the notice.

Maximum penalty- 100 penalty units.

Division 4-Aggressive dogs

22. Attacks by dogs

22.1 A keeper must ensure that a dog does not attack, or cause injury to another person, animal or thing that is lawfully in or on that place.

22.2 A person may not wilfully set on or urge a dog to attack or worry or chase any person, animal or thing.

22.3 A keeper must ensure that a dog does not attack or cause injury to a person animal or thing in a public place.

Maximum penalty-200 penalty units.

22.4 If a dog attacks or worries a person or an animal, an authorised person may seize and impound the dog.

22.5 An authorised person may issue an order for the destruction of a dog seized and impounded under section 22.4

Division 5 - Dangerous dogs

23. Declaration of dangerous dog

23.1 If an authorised person is of the opinion that a dog is dangerous, the authorised person may order the keeper of the dog to take specified actions to-

- (a) warn persons who enter land on which the dog is kept of the presence of a dangerous dog on the land; and
- (b) ensure that the dog is unable to cause injury or damage to persons or other animals.

23.2 A keeper must not fail to comply with an order under section 23.1.

Maximum penalty- 100 penalty units.

23.3 If a dangerous dog is found not under effective control, an authorised person may seize the dog and order its destruction.

24. Dangerous dogs to be muzzled

24.1 A keeper must not bring a dangerous dog into a public place unless the dog is securely muzzled to prevent it from biting.

Maximum penalty- 100 penalty units.

24.2 If an unmuzzled dangerous dog is in a public place, an authorised person may seize and impound the dog.

PART 4-IMPOUNDING OF ANIMALS

Division 1 - Animal pounds

25. Establishment of animal pounds

25.1 The local government may-

- (a) establish an animal pound;
- (b) join with another local government to establish an animal pound; or
- (c) contribute to the establishment and maintenance of an animal pound established by another local government.

26. Opening times for animal pound

26.1 The local government may, by local law policy--

- (a) fix scale of impounding fees to be paid on the release of impounded animals.

27. Register of impounded animals

- 27.1 The local government will keep a proper record of impounded animals (the "Register of Impounded Animals").
- 27.2 The Register will contain the following information about each impounded animal-
- (a) the species, breed and sex of the animal;
 - (b) the brand, colour, distinguishing markings and features of the animal;
 - (c) if applicable--the registration number of the animal;
 - (d) if known--the name and address of the keeper;
 - (e) the date and time of seizure and impounding;
 - (f) the name and address of the authorised person who impounded the animal;
 - (g) the reason for the impounding;
 - (h) a note of any order made by an authorised person relating to the animal; and
 - (i) the date of the sale, release or destruction of the animal.
- 27.3 The Register must be kept available for public inspection at the pound.

Division 2 - Seizure and impounding of animals

28. Seizure and impounding of animals

- 28.1 An authorised person may-
- (a) seize and impound an animal found wandering at large in a public place;
 - (b) at the request of the occupier of land, seize and impound an animal found wandering at large on the occupier's land; and
 - (c) where an animal is unregistered and is required to be registered seize the animal.
- 28.2 The occupier of land may seize an animal found wandering at large on the occupier's land and deliver the animal to an authorised person to be impounded.
- 28.3 An authorised person is not obliged to accept the custody of an animal under this section.
- 28.4 Where a dog is seized and impounded and is in the opinion of an authorised person, diseased, emaciated, injured or sick, an authorised person may cause the dog to be euthanased by a veterinary surgeon.

Division 3 - Dealing with impounded animals

29. Notice of impounding

- 29.1 If an animal is impounded and the authorised person who impounds the animal knows, or can readily find out, the name and address of the keeper of the animal, the authorised person must

give the keeper written notice of the impounding stating that the animal may be reclaimed, within a period stated in the notice, by payment of the fees prescribed by local law policy.

- 29.2 If the keeper pays the relevant fees within the time fixed in the notice, and reclaims the animal, the animal must be returned to the keeper.
- 29.3 If a permit is required for the keeping of the animal, and the keeper does not have the necessary permit, the animal must not be returned until the keeper obtains the necessary permit.
- 29.4 If an animal is impounded and the authorised person who impounds the animal knows, or can readily find out, the name and address of the keeper of the animal, the authorised person may return and release the animal to the keeper on payment of the prescribed fees or penalty.

30. Sale of impounded animals

- 30.1 If an impounded animal has not been reclaimed within a period fixed by local law policy, the local government may-
- (a) offer the animal for sale by public auction;
 - (b) cause the animal to be destroyed;
 - (c) cause the animal to be disposed of; or
 - (d) cause the animal to be rehoused.
- 30.2 If an animal is offered for sale by public auction, a notice advertising the date and time of auction must be displayed at the local government's public office at least two (2) days before the auction is held.
- 30.3 An amount realised on sale of an impounded animal must be applied-
- (a) first towards the costs of the sale;
 - (b) secondly, towards the impounding fees; and
 - (c) thirdly, to the former keeper of the animal.
- 30.4 If the identity of the former keeper of an impounded animal is unknown to the local government, and no person establishes a valid claim to the proceeds of sale within one (1) year of the date of the sale, the proceeds to which the former owner would have been entitled under section 30.3 (c) become the absolute property of the local government.
- 30.5 If there is no purchaser for an impounded animal offered for sale, the local government may dispose of the animal as it considers appropriate.

PART 5-DESTRUCTION OF ANIMALS

31. Destruction orders

- 31.1 An authorised person may order the destruction of an animal if-

- (a) an animal has attacked or threatened to attack a person or another animal; or
- (b) an animal has created a nuisance; or
- (c) an animal has put at risk the safety of any motorist, cyclist, pedestrian or other person.

31.2 When an authorised person makes a destruction order, the authorised person must, if the keeper of the animal is known, or can be ascertained from the local government's records, inform the keeper of the order.

32. Appeal against destruction order

32.1 The keeper of an animal against which a destruction order has been made may appeal to a Magistrates Court against the order.

32.2 The appeal must be commenced within 21 days after the keeper is informed of the making of the order.

33. Powers of Court on appeal

33.1 On an appeal under this Part, the Court may confirm or quash the order for destruction of an animal.

33.2 The Court may quash an order for destruction of an animal only if satisfied that-

- (a) the keeper will in future ensure that the animal is properly kept and controlled in accordance with local law and the circumstances that led to the making of the order are unlikely to recur; or
- (b) if an order for destruction of the animal has previously been revoked by the Court-there are exceptional circumstances justifying quashing the order.

33.3 An order for the costs of an appeal may be made against the local government only if the Court is satisfied that an animal was unlawfully seized or there was no reasonable basis for making the order for destruction of the animal.

34. Summary destruction of animal

34.1 An authorised person may seize and destroy an animal without notice to the keeper of the animal if-

- (a) an animal has been seized and detained more than 3 times in the last year;
- (b) an animal is, in the authorised person's opinion, dangerous and not controllable by means that are reasonably available to the keeper of the animal; or
- (c) an animal is in the opinion of a veterinary surgeon so diseased or emaciated that to prolong the animal's life would cause it suffering.

35. Destruction at request of keeper

35.1 An authorised person may, at the request of a keeper of an animal, seize and have the animal destroyed by a veterinary surgeon.

PART 6-MISCELLANEOUS

36. Sale of animals

36.1 A local law policy may-

- (a) lay down conditions to be complied with by persons who offer animals, or a particular species of animals for sale; and
- (b) specify any exemptions from such policy.

36.2 A person must not offer or display animals for sale in the area unless the person complies with conditions laid down by local law policy under section 36.1.

Maximum penalty-20 penalty units.

37. Prohibition of identifying tags designed to confuse

37.1 A person must not manufacture, sell, or have in possession for sale, identifying tags for animals which may be confused with the identifying tags required for animals under this local law.

Maximum penalty 20 penalty units.

38. Abandonment of animals

38.1 A person must not abandon an animal.

Maximum penalty-20 penalty units.

38.2 A person who delivers an animal into the custody of the authorised person in charge of an animal pound is not to be regarded as having abandoned the animal.

39. Serving of notices

39.1 A notice served under this local law may be served-

- (a) personally on the keeper;
- (b) by certified mail addressed to the keeper, at the address shown in the registration records;
- (c) by leaving it for the keeper with some other person believed to be over the age of eighteen (18) years, who normally resides at the given address; or
- (d) by attaching it on some conspicuous part of the premises in which the animal is normally kept or permitted to remain.

40. Free running dog exercise areas

40.1 The local government may by local law policy declare areas to be free running dog exercise areas.

41. Prohibited areas

41.1 The local government may by local law policy prohibit a particular species of animal from being in a specified area.

41.2 A person may not take an animal into a prohibited area.

Maximum penalty-20 penalty units.