

# Brisbane City Council

## Animals Local Law 2017

This local law was made by Council on 8 May 2018  
**Commencement date - 1 July 2018**



*Dedicated to a better Brisbane*

## Brisbane City Council

# Animals Local Law 2017

made under the  
*City of Brisbane Act 2010*

## Contents

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Part 1	Preliminary .....	6
	1. Short title .....	6
	2. Purpose and how it is to be achieved.....	6
	3. Definitions.....	6
	4. Relationship with other laws.....	6
Part 2	Keeping of animals.....	7
	<b>Division 1                    Animals which must not be kept.....</b>	<b>7</b>
	5. Prohibition against the keeping of certain animals .....	7
	<b>Division 2                    Animals for which a permit is required .....</b>	<b>7</b>
	6. Requirement for permit.....	7
	7. Obligation to hold permit .....	7
	<b>Division 3                    Obtaining and administering permits .....</b>	<b>7</b>
	8. Form of application .....	7
	9. Council's discretion in deciding application .....	8
	10. Conditions of a permit .....	9
	11. Compliance with condition of a permit.....	10
	12. Third party certification .....	10
	13. Term of permit .....	10
	14. Renewal of permit .....	10
	15. Amending conditions at request of permit holder .....	12
	16. Grounds for amending, suspending or cancelling permit .....	12
	17. Procedure for amending, suspending or cancelling permit .....	13
	18. Procedure for immediate suspension of permit.....	13
	<b>Division 4                    Minimum standards.....</b>	<b>14</b>
	19. Minimum standards for keeping animals .....	14
	20. Animal noise .....	14
	<b>Division 5                    Additional requirements for cats and dogs.....</b>	<b>15</b>
	21. Registration of dogs .....	15
	22. Owner must ensure cat or dog is implanted.....	15

	<b>Division 6</b>	<b>Self-assessment .....</b>	<b>15</b>
	23.	Self-assessment may be permitted .....	15
	24.	Self-assessment system .....	15
Part 3		Control of animals .....	15
	<b>Division 1</b>	<b>Animals in public places .....</b>	<b>15</b>
	25.	Control of animals in public places .....	15
	26.	Person in control of animal to clean up faeces.....	16
	<b>Division 2</b>	<b>Animals at large.....</b>	<b>16</b>
	27.	Duty to provide enclosure and prevent animal from wandering .....	16
	<b>Division 3</b>	<b>Aggressive behaviour by animals other than dogs.....</b>	<b>17</b>
	28.	Limited application of division to dogs.....	17
	29.	Animal not to attack persons or animals .....	17
	<b>Division 4</b>	<b>Regulated animals .....</b>	<b>19</b>
	30.	Declaration of a regulated animal other than a dog .....	19
	31.	Power to require keeper of declared regulated animal to take specified action .....	19
Part 4		Seizure, rehoming, impounding, sale or destruction of animals .....	20
	<b>Division 1</b>	<b>Seizure of animals .....</b>	<b>20</b>
	32.	Seizure of animals.....	20
	33.	Power to assist seizure and impounding.....	20
	<b>Division 2</b>	<b>Return or impounding of animals .....</b>	<b>20</b>
	34.	Return of animal seized wandering at large .....	20
	35.	Impounding of seized animal.....	21
	36.	Dealing with animal seized and impounded for wandering at large .....	21
	37.	Dealing with animal seized and impounded for non-compliance with a compliance notice.....	21
	38.	Dealing with animal seized and impounded for attacking a person or another animal.....	22
	39.	Dealing with animal seized where keeping prohibited.....	22
	40.	Reclaiming an impounded animal .....	22
	<b>Division 3</b>	<b>Destruction of animal without notice .....</b>	<b>24</b>
	41.	Application of division.....	24
	42.	Power to immediately destroy seized animal .....	24
	43.	Power to destroy animals that cannot safely be seized .....	24
	<b>Division 4</b>	<b>Destruction of animal following notice.....</b>	<b>25</b>
	44.	Destruction orders .....	25
	45.	Destruction of an animal the subject of a destruction order .....	25
	<b>Division 5</b>	<b>Sale, relocation or destruction of impounded animals .....</b>	<b>26</b>
	46.	Sale, relocation or destruction of impounded animals.....	26
	47.	Civil remedy.....	27

	<b>Division 6</b>	<b>Other matters .....</b>	<b>27</b>
	48.	Pound .....	27
	49.	Register of impounded animals .....	27
	50.	Access to impounded animal .....	28
Part 5	Enforcement .....		28
	<b>Division 1</b>	<b>Notices .....</b>	<b>28</b>
	51.	Oral compliance direction .....	28
	52.	Compliance notice .....	28
	53.	Notice to remove .....	30
	54.	Information notices .....	31
	55.	Show cause notices .....	31
	56.	Notice of impounding .....	32
	57.	Destruction order .....	32
Part 6	Review of decisions and legal proceedings .....		32
	<b>Division 1</b>	<b>Review of decisions .....</b>	<b>32</b>
	58.	Application for review of decisions .....	32
	59.	Review decision by Council .....	33
	60.	Stay of operation of original decision .....	34
	<b>Division 2</b>	<b>Appeals against destruction orders .....</b>	<b>34</b>
	61.	Who may appeal .....	34
	62.	Starting appeal .....	34
	63.	Stay of destruction order .....	34
	64.	Court's powers on appeal .....	34
	65.	Withdrawal of appeal .....	37
	66.	Costs of appeal .....	37
	67.	Vacating decision to set aside destruction order .....	37
	68.	Appeal to District Court .....	37
	<b>Division 3</b>	<b>Evidence in legal proceedings .....</b>	<b>37</b>
	69.	Evidence .....	37
	70.	Evidentiary provisions for animal noise .....	37
	71.	No liability for acts undertaken honestly and in good faith .....	38
	72.	Primacy of <i>Animal Management (Cats and Dogs) Act 2008</i> processes .....	38
	73.	Service/Giving of Notices .....	38
Part 7	Miscellaneous .....		38
	74.	No right to compensation .....	38
Part 8	Repeal and transitional provisions .....		38
	<b>Division 1</b>	<b>Repeal .....</b>	<b>38</b>
	75.	Repeal .....	38

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<b>Division 2</b>	<b>Transitional provisions .....</b>	<b>38</b>
76.	Existing approval .....	38
Schedule 1	Dictionary	40
Schedule 2	Circumstances in which keeping an animal is prohibited .....	45
Schedule 3	Circumstances in which keeping an animal requires a permit .....	46
Schedule 4	Circumstances in which a permit will not ordinarily be granted .....	47
Schedule 5	Minimum standards for keeping animals .....	49

## **Part 1 Preliminary**

### **1. Short title**

This local law may be cited as the *Animals Local Law 2017*.

### **2. Purpose and how it is to be achieved**

- (1) The purpose of this local law is to regulate and manage the keeping and control of animals in a way that—
  - (a) protects the community against risk of injury or damage from animals; and
  - (b) ensures that animals do not create a nuisance, or a hazard to health or safety; and
  - (c) prevents pollution and other environmental harm; and
  - (d) protects the amenity of the local environment; and
  - (e) ensures that animals are kept in ways consistent with community expectations; and
  - (f) fosters responsible pet ownership.
- (2) The purpose is to be achieved by providing for—
  - (a) the regulation of the keeping of animals in terms of quantity, type and how and where animals can be kept; and
  - (b) the proper control of animals in public places or any other place designated by Council; and
  - (c) the management of dangerous or aggressive animals other than dogs; and
  - (d) the seizure, rehoming, impounding, sale or destruction of animals in certain circumstances; and
  - (e) the establishment and administration of animal pounds.

### **3. Definitions**

The dictionary in Schedule 1 defines particular words used in this local law.

### **4. Relationship with other laws**

- (1) This local law does not derogate from—
  - (a) any other laws regulating—
    - (i) the use or development of land; and
    - (ii) the keeping or control or welfare of animals; and
    - (iii) public health risks; and
    - (iv) the environment; and
  - (b) any other local law or subordinate local law made by Council.

- (2) If there is an inconsistency between this local law and a law made by the State or Commonwealth, the law made by the State or Commonwealth prevails to the extent of the inconsistency.

## **Part 2 Keeping of animals**

### **Division 1 Animals which must not be kept**

#### **5. Prohibition against the keeping of certain animals**

A person must not keep an animal mentioned in column 1 of Schedule 2 in the circumstances described in column 2 of Schedule 2.

Maximum penalty—50 penalty units.

### **Division 2 Animals for which a permit is required**

#### **6. Requirement for permit**

- (1) A person must not keep an animal mentioned in column 1 of Schedule 3 in the circumstances described in column 2 of Schedule 3 without a permit.
- (2) A permit is not required for keeping an animal on land, if the keeping of the animal on the land is authorised by a development approval.

#### **7. Obligation to hold permit**

If a permit is required by this local law, a person must not keep an animal without holding the current permit.

Maximum penalty—50 penalty units.

### **Division 3 Obtaining and administering permits**

#### **8. Form of application**

- (1) An application for a permit must be in an approved form.
- (2) An application under subsection (1) must be accompanied by—
- (a) any separate approval; and
  - (b) the prescribed fee where required; and
  - (c) if the land is trust land—a copy of the terms and conditions of the trust.

*Note—*

The consent of the owner of land may be required if the applicant is not the land owner or the land is trust land.

- (3) Council may, by written notice, request the applicant to provide further information or to clarify information, documents or materials included in the application.
- (4) The notice under subsection (3) must state—
  - (a) the grounds on which the request is made; and
  - (b) a detailed description of the information requested; and
  - (c) the date, not less than 7 days after the applicant is given or taken to have received the notice, by which the applicant must either—
    - (i) provide the information; or
    - (ii) give a written notice to Council requesting an extension of time, to a specified date, to provide the information.
- (5) If the applicant does not provide the information, or give a written notice requesting an extension of time under subsection (4)(c)(ii), by the date stated in a notice under subsection (3)—
  - (a) the application is deemed to have lapsed; and
  - (b) Council must give the applicant a written notice stating that—
    - (i) under this subsection (5), the application has lapsed; and
    - (ii) the applicant may make a new application.
- (6) If the applicant requests an extension of time under subsection (4)(c)(ii), Council must, within 7 days of receiving the request—
  - (a) consider the request; and
  - (b) provide a notice to the applicant stating that Council has—
    - (i) granted the extension of time and the new date by which the information must be provided; or
    - (ii) refused to grant an extension of time and the reasons why.
- (7) A person must not provide information in, or in connection with, an application that the person knows, or ought reasonably know, is false or misleading.

Maximum penalty for subsection (7)—20 penalty units.

## **9. Council's discretion in deciding application**

- (1) Council may grant a permit if Council is satisfied that—
  - (a) if the keeping of the animal requires an approval under any other law—the approval has been granted; and
  - (b) the keeping of the animal will be undertaken in a manner that will preserve public health, safety and amenity and prevent environmental harm; and
  - (c) the granting of the permit is not inconsistent with the purpose of any relevant local law; and
  - (d) the keeping of the animal is not prohibited by this local law; and

- (e) if the animal is proposed to be kept on trust land—the granting of the permit would be consistent with the terms and conditions of the trust.
- (2) In considering whether to grant a permit, Council may have regard to any 1 or more of the following—
  - (a) any information relevant to a matter of which Council must be satisfied of under subsection (1);
  - (b) the suitability of the applicant to keep an animal;
  - (c) the suitability of the land on which the animal is to be kept;
  - (d) the suitability of enclosures in which the animal is to be kept;
  - (e) the likelihood of the animal causing danger, nuisance, inconvenience or annoyance to the occupiers of neighbouring land;
  - (f) the likely effect on the amenity of the surrounding area;
  - (g) the likely effect on the local environment and any possible pollution or other environmental harm;
  - (h) any other factors that Council considers relevant in the circumstances.
- (3) A permit will not ordinarily be granted for the keeping of an animal mentioned in column 1 of Schedule 4 in circumstances described in column 2 of Schedule 4.
- (4) Subject to subsection (1) and the provisions of any relevant local law, Council may, by written notice to the applicant—
  - (a) grant the permit unconditionally; or
  - (b) grant the permit subject to conditions, determined in accordance with section 10; or
  - (c) refuse to grant the permit.
- (5) Council must give the applicant an information notice if Council refuses to grant the permit.

## **10. Conditions of a permit**

- (1) Subject to subsection (2), a permit may be granted on any conditions that Council considers appropriate.
- (2) The conditions must—
  - (a) be reasonably necessary to ensure that the keeping of the animal will be undertaken in a manner that preserves public health, safety and amenity and prevents environmental harm; and
  - (b) not be inconsistent with the purpose of any other relevant local law; and
  - (c) not conflict with the conditions of any other relevant approval issued under another law, or any conditions otherwise imposed

- under another law in relation to the keeping of the animal; and
- (d) require the permit holder to notify Council in writing of a suspension or any cancellation of any other relevant approval, within 3 days of the suspension or cancellation.
- (3) Subject to subsection (2), but without limiting subsection (1), Council may impose conditions relating to any 1 or more of the following matters—
- (a) the taking of measures to prevent uncontrolled breeding of animals;
  - (b) keeping the animal in an appropriate enclosure;
  - (c) the area and dimensions of the land in which the animal is to be kept;
  - (d) compliance with appropriate hygiene standards;
  - (e) identifying the animal with a permanent identification mark;
  - (f) ensuring the animal does not cause danger, nuisance, inconvenience or annoyance to others;
  - (g) measures to prevent the animal from causing injury or damage to persons or other animals;
  - (h) measures to protect the local environment from environmental harm;
  - (i) restrictions on the keeping of certain breeds of animals, and on the size or number of animals.

#### **11. Compliance with condition of a permit**

A permit holder or any person acting under a permit must not contravene any condition of a permit.

Maximum penalty—20 penalty units.

#### **12. Third party certification**

In deciding any application under this part, Council may accept the certificate of a third party certifier as evidence of any requirement under this local law.

#### **13. Term of permit**

Unless cancelled or suspended, a permit remains in force for—

- (1) the term specified in the permit; or
- (2) if no term is specified in the permit—1 year from the date the permit is granted.

#### **14. Renewal of permit**

- (1) Subject to subsection (2), a permit holder may, before the end of the term of the permit, apply to Council to renew or extend the permit for a maximum further term of 5 years.

- (2) A permit holder may not apply to renew or extend the permit if the permit is of a class of permits that Council has notified the permit holder it does not intend to renew or extend.

*Example—*

Council may give notice to a permit holder that, because of safety concerns regarding a particular breed of dog, Council does not intend to grant, renew or extend any permits for the keeping of that breed of dog.

- (3) An application under subsection (1) must be—
- (a) made in an approved form; and
  - (b) accompanied by the prescribed fees where required.
- (4) Council may, by written notice, request the applicant to provide further information or to clarify information, documents or materials included in the application.
- (5) Sections 8(4) to 8(7) apply to the notice issued under subsection (4) as if it was a notice under section 8(3).
- (6) Council may grant the application only if it is satisfied about the matters mentioned in section 9(1).
- (7) In deciding the application, Council may have regard to—
- (a) whether the conditions of the permit have been, and are being, complied with by the applicant; and
  - (b) any 1 or more of the matters mentioned in section 9(2).
- (8) Council may, by written notice to the applicant—
- (a) grant the application; or
  - (b) grant the application and, in its discretion, amend the conditions of the permit, with the notice to be accompanied by a copy of the permit that includes the amended conditions; or
  - (c) refuse the application.
- (9) Council must also give the applicant an information notice if Council—
- (a) refuses the application; or
  - (b) grants the application and includes or amends any conditions.
- (10) Council may amend the conditions of the permit under subsection (8) without following the procedure in section 17.
- (11) If a permit holder makes an application under subsection (1) in accordance with this section 14, the permit holder's permit, as in force at the time of the application under subsection (1), remains in force until the later of—
- (a) if the application lapses under section 8(5)—the date the application lapses; or
  - (b) if the application is granted, with or without amendment of the conditions—the date the application is granted; or

- (c) if the application is refused, or the application is granted and the conditions of the permit are amended, and the applicant applies for a review of the decision—the date the applicant is given notice of the review decision; or
- (d) if the application is refused or the application is granted and the conditions of the permit are amended, and the applicant does not apply for a review of the decision—the earlier of 14 days after the date the applicant is given an information notice under subsection (9)(a) or (b).

**15. Amending conditions at request of permit holder**

- (1) A permit holder may apply to Council to amend the conditions of a permit.
- (2) The application must—
  - (a) be in writing and state—
    - (i) the proposed amendment; and
    - (ii) the reasons why the amendment is sought; and
  - (b) be accompanied by the prescribed fee where required.
- (3) Council may, by written notice to the permit holder—
  - (a) grant the application, with the notice to be accompanied by a copy of the permit that includes the amended conditions; or
  - (b) refuse the application, with the notice to be accompanied by an information notice.
- (4) Council may amend the conditions of the permit under subsection (3) without following the procedure in section 17.

**16. Grounds for amending, suspending or cancelling permit**

Each of the following is a ground for amending, suspending or cancelling a permit—

- (1) amendment, suspension or cancellation is necessary—
  - (a) for the protection of public health or safety; or
  - (b) to prevent environmental harm; or
  - (c) to prevent property damage or loss of amenity; and
- (2) a separate approval required under another law for the keeping of the animal has been suspended or cancelled; and
- (3) in keeping the animal, the permit holder has failed to comply with this local law or another law; and
- (4) the permit holder has failed to comply with a condition of the permit; and
- (5) the permit holder has failed to comply with an oral compliance direction or compliance notice in relation to an animal that is the subject of the permit; and

- (6) a document or representation relied upon by Council in granting the permit—
  - (a) contained false or misleading information; or
  - (b) was obtained or made in another improper way.

**17. Procedure for amending, suspending or cancelling permit**

- (1) This section applies if Council reasonably suspects that there may exist a ground under section 16 to amend, suspend or cancel a permit.
- (2) Before amending, suspending or cancelling the permit, Council must give the permit holder a show cause notice in accordance with section 55.
- (3) If, after considering all submissions made by the permit holder within the show cause period, Council decides that a ground does not exist to take the proposed action, Council must—
  - (a) give written notice to the permit holder about Council's decision; and
  - (b) take no further action in relation to the show cause notice.
- (4) A decision of Council under subsection (3) takes effect on the day the written notice is given to the permit holder.
- (5) If, after considering all submissions made by the permit holder within the show cause period, Council considers that there is a ground to take the proposed action, Council may—
  - (a) if the proposed action was to amend the permit—amend the permit and give the permit holder an information notice; or
  - (b) if the proposed action was to suspend the permit—suspend the permit for no longer than the period stated in the show cause notice and give the permit holder an information notice; or
  - (c) if the proposed action was to cancel the permit—amend the permit, suspend the permit or cancel the permit, and give the permit holder an information notice.
- (6) A decision of Council under subsection (5) takes effect on—
  - (a) the date stated in the information notice; or
  - (b) if no date is stated in the information notice—the date the information notice is given to the permit holder.
- (7) This section does not limit any power that Council may otherwise have to amend, suspend or cancel a permit under this local law.

**18. Procedure for immediate suspension of permit**

- (1) Despite section 17, Council may immediately suspend a permit if Council reasonably suspects that the keeping of the animal by the permit holder poses an urgent and serious—
  - (a) threat to public health or safety; or

- (b) risk of environmental harm, property damage or loss of amenity.
- (2) If Council decides to immediately suspend a permit, Council must give the permit holder—
  - (a) a written notice about the decision to immediately suspend the permit; and
  - (b) a show cause notice in accordance with section 55.
- (3) A decision by Council to suspend a permit under subsection (2)—
  - (a) takes effect immediately upon Council giving the written notice and show cause notice to the permit holder under subsection (2); and
  - (b) continues to operate until the earliest of the following happens—
    - (i) Council revokes the suspension;
    - (ii) Council gives the permit holder a written notice under section 17(3);
    - (iii) 14 days have passed since the expiry of the show cause period under the show cause notice;
    - (iv) 14 days have passed since the permit holder gives notice to Council that the permit holder has made their final written submissions regarding the show cause notice;
    - (v) Council gives the permit holder a written notice under section 17(5).

## **Division 4                      Minimum standards**

### **19.     Minimum standards for keeping animals**

- (1) A keeper of an animal must comply with each of the relevant minimum standards set out in Schedule 5.  
Maximum penalty—20 penalty units.
- (2) If a person is required to hold an approval to keep an animal, the obligation to comply with the minimum standards is in addition to any obligations imposed by the conditions of the approval.

### **20.     Animal noise**

- (1) A person must not keep an animal on land if the animal causes a noise nuisance.
- (2) An animal causes a noise nuisance if it makes noise which disrupts or inhibits an activity ordinarily carried out on adjoining land or nearby residential premises.
- (3) In considering whether an animal has caused a noise nuisance, an authorised person may have regard to any 1 or more of the following—
  - (a) whether complaints have been received from different persons all of whom occupy separate premises in the same or an adjoining

- street to the premises subject to the complaints;
- (b) the frequency and intensity of the animal noise;
- (c) the duration and time of the animal noise, in particular—
  - (i) whether it is made for more than a total of 6 minutes in any hour from 7am to 10pm on any day; or
  - (ii) whether it is made for more than a total of 3 minutes in any 30-minute period on any day after 10pm or before 7am.

Maximum penalty—20 penalty units.

## **Division 5                      Additional requirements for cats and dogs**

### **21.      Registration of dogs**

An owner of a dog must register the dog with Council in accordance with the *Animal Management (Cats and Dogs) Act 2008*.

### **22.      Owner must ensure cat or dog is implanted**

An owner of a cat or dog must ensure that the cat or dog is implanted with a permanent identification mark in accordance with the *Animal Management (Cats and Dogs) Act 2008*.

## **Division 6                      Self-assessment**

### **23.      Self-assessment may be permitted**

Council may allow a permit to be granted by a self-assessment system established under section 24 of this local law.

### **24.      Self-assessment system**

- (1) Council may establish a self-assessment system for activities that ordinarily require approval by Council under this local law.
- (2) If a person properly undertakes a self-assessment process through a system established under subsection (1), this local law applies to any proper self-assessment as if it were an approval granted by Council under this local law.
- (3) Sections 8(7) and 9 apply to this section.

## **Part 3                              Control of animals**

### **Division 1                      Animals in public places**

### **25.      Control of animals in public places**

A keeper of an animal must ensure that when the animal is in a public place—

- (1) it is under the effective control of a person that is physically able to keep

- the animal under their effective control; and
- (2) is securely restrained to prevent it from—
- (a) attacking a person or animal; or
  - (b) acting in a way that causes fear to a person or animal; or
  - (c) causing damage to property.

Maximum penalty—20 penalty units.

## **26. Person in control of animal to clean up faeces**

- (1) This section applies to all persons who are in control of an animal, other than an animal that is—
- (a) on active duty with a government agency; or
  - (b) trained and in use for assisting persons who are vision impaired.
- (2) A person who has control of an animal must carry a bag, implement or container suitable to pick up and dispose of the animal's faeces if the animal defecates.

Maximum penalty—0.5 penalty units.

- (3) If an animal defecates in a public place, the person who has control of the animal must immediately pick up and dispose of the faeces in a sanitary manner and so that it—
- (a) cannot be washed into watercourses, gutters or stormwater drains; and
  - (b) cannot form a breeding place for designated pests; and
  - (c) does not cause a nuisance.

Maximum penalty—20 penalty units.

*Example—*

Acceptable methods of disposing of animal faeces include—

- (a) placing it in a bin designated for the disposal of animal faeces by Council; or
- (b) disposal to sewer; or
- (c) hygienic disposal at the keeper's premises; or
- (d) such other manner as may be specified in this local law.

## **Division 2 Animals at large**

### **27. Duty to provide enclosure and prevent animal from wandering**

- (1) A keeper of an animal must maintain an enclosure.
- Maximum penalty—20 penalty units.
- (2) Council may prescribe requirements for an enclosure for an animal or species or breed of animal.
- (3) The keeper of an animal must ensure that the animal does not wander at large.

Maximum penalty—20 penalty units.

- (4) It is a defence to a prosecution for an offence against subsection (3) for the defendant to prove that the defendant maintained an enclosure for the animal and could not, by the exercise of reasonable diligence, have prevented the escape of the animal.
- (5) In determining whether a defendant has satisfied subsection (4), Council must have regard to—
  - (a) the species, breed and type of animal; and
  - (b) the risk posed by the animal to people and other animals; and
  - (c) the size of the animal; and
  - (d) the adequacy of the enclosure erected to keep the animal within the premises where it is usually kept; and
  - (e) whether the animal has a history of wandering.

### **Division 3                      Aggressive behaviour by animals other than dogs**

#### **28.      Limited application of division to dogs**

Unless otherwise indicated, this division does not apply to dogs.

*Note—*

*The Animal Management (Cats and Dogs) Act 2008 regulates aggressive behaviour by dogs.*

#### **29.      Animal not to attack persons or animals**

- (1) A keeper of an animal must take reasonable steps to ensure that an animal does not attack or act in a way that causes fear to another person or animal, or causes damage to another person's property.

Maximum penalty—

- (a) for an attack that causes the death of, or grievous bodily harm to, a person—300 penalty units; or
  - (b) for an attack that causes the death of, or grievous bodily harm to, another animal—100 penalty units; or
  - (c) for an attack that causes bodily harm to a person or another animal—50 penalty units; or
  - (d) otherwise—20 penalty units.
- (2) A person must not allow or encourage an animal to attack or act in a way that causes fear to another person or animal, or causes damage to another person's property.

Maximum penalty—

- (a) for an attack that causes the death of, or grievous bodily harm to, a person—300 penalty units; or
  - (b) for an attack that causes the death of, or grievous bodily harm to, another animal—100 penalty units; or

- (c) for an attack that causes bodily harm to a person or another animal—50 penalty units; or
- (d) otherwise—20 penalty units.

(3) In this section—

- (a) **allow** or **encourage**, without limiting sections 7 and 8 of the *Criminal Code Act 1899*, includes causing to allow or encourage; and
- (b) **animal** does not include vermin that are not the property of anyone.

*Examples of vermin that are someone's property—*

- (a) a pet mouse or guinea pig; or
- (b) vermin that are protected animals under the *Nature Conservation Act 1992* (see section 83 of that Act).

## Division 4                      Regulated animals

### 30.      Declaration of a regulated animal other than a dog

- (1) An authorised person may declare an animal other than a dog to be a declared regulated animal if the animal meets the criteria set out in subsection (2).
  - (2) An animal may be declared to be a regulated animal if—
    - (a) it has seriously attacked a person or another animal; or
    - (b) in the opinion of an authorised person having regard to the way the animal has behaved towards a person or another animal, there is a reasonable risk it may seriously attack a person or animal.
  - (3) A declaration under subsection (1) takes effect at the time Council gives any keeper of the animal an information notice about the declaration.
  - (4) Council may prescribe a registration fee for a declared regulated animal and must notify the keeper in writing of the prescribed fee.
  - (5) A keeper of a declared regulated animal must pay the prescribed fee within the time specified in writing by Council.
- Maximum penalty for subsection (5)—20 penalty units.

### 31.      Power to require keeper of declared regulated animal to take specified action

An authorised person may, by giving a compliance notice, require a keeper of a declared regulated animal to take specified action relating to the keeping and management of the animal, including 1 or both of the following—

- (1) warning persons who enter land on which the animal is kept of the presence of the declared regulated animal on the land; and
- (2) ensuring that the animal remains in an enclosure and is unable to attack or cause fear to persons or other animals or cause damage to another person's property.

## **Part 4                      Seizure, rehoming, impounding, sale or destruction of animals**

### **Division 1                Seizure of animals**

#### **32.      Seizure of animals**

- (1) An authorised person may seize an animal in any 1 or more of the following circumstances—
  - (a) the animal is found wandering at large, including where—
    - (i) another person has found the animal wandering at large and delivered it to an authorised person;
    - (ii) an occupier of private land has found the animal wandering at large on the land and requested that an authorised person enter the land to seize it;
  - (b) a keeper of the animal has not complied with a compliance notice in relation to the animal;
  - (c) for an animal other than a dog—the animal has attacked a person or another animal;
  - (d) the animal is a prohibited animal;
  - (e) a keeper of the animal has surrendered it to Council for rehoming or destruction.
- (2) An authorised person is not obliged to accept the custody of an animal under this section.
- (3) For the purposes of seizing an animal, an authorised person, and any person who assists the authorised person, may take any action which is reasonable in the circumstances to capture or control the animal.

#### **33.      Power to assist seizure and impounding**

In seizing or impounding an animal under this part—

- (1) the occupier, a keeper and an authorised person acting separately or in concert, may use any reasonable methods of capturing, trapping, controlling or sedating the animal; and
- (2) an authorised person may use mechanical and tranquilising devices.

### **Division 2                Return or impounding of animals**

#### **34.      Return of animal seized wandering at large**

An animal seized under section 32(1)(a) may be returned to a keeper of the animal by an authorised person if—

- (1) an authorised person knows, or can readily find out, the keeper's name and address; and
- (2) the animal is not a prohibited animal.

### **35. Impounding of seized animal**

- (1) An authorised person who seizes an animal under this local law or another law may impound the animal at a pound operated by—

- (a) Council; or
- (b) an organisation or another local government.

*Example for paragraph (a)—*

An animal pound operated by Council.

*Examples for paragraph (b)—*

A veterinary surgery, an animal pound operated by a different local government, or an animal refuge.

- (2) For the purposes of impounding a seized animal, an authorised person, and any person who assists an authorised person, may take any action which is reasonable in the circumstances to maintain effective control over the animal.

### **36. Dealing with animal seized and impounded for wandering at large**

- (1) An authorised person must give a notice of impounding to a keeper of an animal seized by an authorised person under section 32(1)(a) if—

- (a) the animal was not a declared regulated animal at the time of being seized; and
- (b) the animal is not a prohibited animal; and
- (c) the animal has not been seized on more than 3 occasions during the previous 12 months; and
- (d) an authorised person knows, or can readily find out, the name and address of the keeper.

- (2) Where an animal has more than 1 keeper, subsection (1) only requires an authorised person to give a notice of impounding to 1 keeper of the animal.

- (3) Where an authorised person has seized an animal under section 32(1)(a), but is not required by subsection (1) to give a keeper of the animal a notice of impounding, an authorised person may—

- (a) if the animal is not a prohibited animal—give a keeper of the animal a notice of impounding; or
- (b) make a destruction order for the animal.

### **37. Dealing with animal seized and impounded for non-compliance with a compliance notice**

Where an authorised person has impounded an animal seized under section 32(1)(b), an authorised person may either—

- (1) if the animal is not a prohibited animal—give a keeper of the animal a notice of impounding; or
- (2) if the animal is a prohibited animal—make a destruction order for the

animal.

**38. Dealing with animal seized and impounded for attacking a person or another animal**

Where an authorised person has impounded an animal seized under section 32(1)(c), an authorised person may—

- (1) if the animal is not a prohibited animal—give a keeper of the animal a notice of impounding; or
- (2) make a destruction order for an animal.

**39. Dealing with animal seized where keeping prohibited**

Where an authorised person has impounded an animal seized under section 32(1)(d), an authorised person may make a destruction order for the animal.

**40. Reclaiming an impounded animal**

- (1) This section applies in relation to an animal that has been seized and impounded where—
  - (a) a keeper of the animal has been given a notice of impounding; or
  - (b) an authorised person does not know, and cannot readily find out, the name and address of a keeper of the animal.
- (2) The animal may be reclaimed by a keeper—
  - (a) if the keeper reclaims the animal within the prescribed period; and
  - (b) if the keeper pays any cost-recovery fee fixed by resolution of Council in relation to the seizure and impounding of the animal; and
  - (c) if an approval, registration or permanent identification mark is required for the keeping of the animal, and has not been obtained—if the keeper obtains the approval, registration or permanent identification mark; and
  - (d) if a keeper of the animal has not complied with a compliance notice issued in relation to the animal—if the keeper complies with the compliance notice.
- (3) A keeper of an animal may not reclaim the animal under subsection (2) if—
  - (a) the animal is a prohibited animal; or
  - (b) continued retention of an animal is required as evidence for a proceeding or proposed proceeding for an offence involving the animal—unless an authorised person has advised a keeper of the animal that the animal's continued retention is no longer required; or
  - (c) the animal has been rehomed; or

- (d) a destruction order has been made for the animal.

- (4) Despite subsection (3)(d), a keeper of an animal may reclaim the animal under subsection (2) if—
  - (a) a review or appeal in relation to the destruction order has—
    - (i) been finally decided or has otherwise ended; and
    - (ii) the destruction order is no longer in force; or
  - (b) Council has agreed in writing that it will not proceed with destruction of the animal.

### **Division 3                      Destruction of animal without notice**

#### **41.      Application of division**

- (1) Division 3 applies despite Division 2.
- (2) Division 3 does not apply to a regulated dog.

#### **42.      Power to immediately destroy seized animal**

Where an authorised person seizes an animal, an authorised person may, without notice, immediately destroy the animal if—

- (1) an authorised person reasonably believes that—
  - (a) the animal is dangerous; and
  - (b) an authorised person cannot control it by means that are reasonably available to the authorised person; or
- (2) an authorised person reasonably believes that the animal—
  - (a) is so diseased, emaciated or injured that its continued existence causes it to suffer; or
  - (b) is suffering from injury, disease or sickness to such an extent that it is impracticable to maintain it; or
  - (c) is suffering from any disease or sickness that is of a contagious or infectious kind to such an extent that the disease or sickness poses a risk to the health or safety of a person or another animal; or
- (3) a keeper of the animal has requested an authorised person to destroy it; or
- (4) the animal—
  - (a) is a declared regulated animal; and
  - (b) after the time it became a declared regulated animal, it has attacked, or acted in a way that has caused fear to, a person or animal.

#### **43.      Power to destroy animals that cannot safely be seized**

An authorised person may destroy an animal instead of seizing it if—

- (1) an authorised person has power to seize the animal under this local law; and
- (2) an authorised person forms a reasonable belief that the animal cannot be seized using means reasonably available to an authorised person without undue risk to the safety of an authorised person or other persons.

## **Division 4                      Destruction of animal following notice**

### **44.      Destruction orders**

An authorised person may make a destruction order for an animal if—

- (1) for an animal that has been seized or impounded—the making of a destruction order is authorised by section 36(3)(b), 37(2), 38(2) or 39; or
- (2) the animal has attacked a person or another animal; or
- (3) the animal is a declared regulated animal and was found wandering at large; or
- (4) the animal has been seized on more than 3 occasions in the preceding 12 months.

### **45.      Destruction of an animal the subject of a destruction order**

An authorised person may destroy an animal for which a destruction order has been made if—

- (1) no keeper of the animal has applied for a review of the decision to make the destruction order within 14 days of the destruction order being served; or
- (2) a keeper of the animal applies for review of the decision to make the destruction order within 14 days of the destruction order being served, and—
  - (a) the review is finally decided or is otherwise ended; and
  - (b) the destruction order is still in force; and
  - (c) the time allowed for filing a notice of appeal under section 62 has expired; and
  - (d) Council has not been served with a notice of appeal; or
- (3) an appeal is made in relation to the review decision under section 61, and—
  - (a) the appeal is finally decided or is otherwise ended; and
  - (b) the destruction order is still in force; and
  - (c) the time allowed for the filing of any further appeal has expired; and
  - (d) Council has not been served with notice of the filing of any further appeal.

## **Division 5                      Sale, relocation or destruction of impounded animals**

### **46.      Sale, relocation or destruction of impounded animals**

- (1) Council may sell, relocate or destroy an impounded animal under this section if—
  - (a) the animal has not been reclaimed within the prescribed period; or
  - (b) the animal could otherwise be destroyed under section 44.
- (2) In exercising its powers under subsection (1), Council may—
  - (a) offer the animal for sale by private treaty or by public tender, expression of interest or auction, provided that doing so would not result in the animal being kept in contravention of this local law; or
  - (b) keep the animal; or
  - (c) destroy the animal; or
  - (d) if it is reasonably achievable to do so – rehome the animal; or
  - (e) relocate the animal in some other way that Council considers appropriate in the circumstances.

*Example for paragraph (d)—*

For a small domestic animal that cannot practicably be sold, Council might consider it appropriate to give the animal away.

- (3) Any amount of money realised on the sale of an animal under this section must be applied—
  - (a) first, towards Council's costs of the sale; and
  - (b) second, towards any cost-recovery fee fixed under section 40(2)(b); and
  - (c) third, to payment of any other outstanding penalties or fees owing to Council under this local law by a keeper of the animal; and
  - (d) fourth—
    - (i) if a person is recorded in a register kept by Council as the owner of the animal—to that person; or
    - (ii) if no person is recorded in a register kept by Council as the owner of the animal—to any other keeper of the animal, if Council knows, or can readily find out, the keeper's name and address.
- (4) If, after Council complies with subsection (3), any amount of the proceeds of sale remains, that amount becomes the absolute property of Council.
- (5) If Council sells or rehomes an animal under subsection (2)(a) or (2)(d), the person who purchases or rehomes the animal will become the keeper.

#### 47. Civil remedy

If a sale or rehoming of an animal under section 46 does not realise a sufficient amount to pay any prescribed impounding and maintenance fees owing to Council in relation to the animal, Council may recover the shortfall as a liquidated debt from 1 or more keepers of the animal, in any court of competent jurisdiction (whether in a single action or otherwise).

### Division 6 Other matters

#### 48. Pound

Council may—

- (1) establish a pound; or
- (2) join with another local government in establishing a pound.

#### 49. Register of impounded animals

- (1) Council must keep a proper written or electronic record of impounded animals (the **register**).
- (2) The register must include the following information about each impounded animal, where applicable and known—
  - (a) for cats and dogs—the PPID; and
  - (b) for dogs—the registration number and the relevant supply number; and
  - (c) the name of the authorised person who impounded the animal; and
  - (d) any identifying marks or remarks about appearance or condition of the animal; and
  - (e) species; and
  - (f) breed; and
  - (g) sex; and
  - (h) name and address of—
    - (i) if a person is recorded in a register kept by Council as the owner of the animal—that person; or
    - (ii) if no person is recorded in a register kept by Council as the owner of the animal—any other keeper of the animal, if Council knows, or can readily find out, the keeper's name and address; and
  - (i) the date, time, place and reason the animal was impounded; and
  - (j) the time when and the manner in which the animal left the pound, including whether the animal was—
    - (i) released, and the person to whom it was released; or

- (ii) sold and the person to whom it was sold; or
  - (iii) destroyed.
- (3) The register must be kept available for public inspection at any 1 or more of the following—
  - (a) a place where animals may be impounded under section 35;
  - (b) Council's office.

#### **50. Access to impounded animal**

Council may allow the keeper of an impounded animal to inspect it, unless Council considers it impracticable or unreasonable to allow an inspection.

## **Part 5 Enforcement**

### **Division 1 Notices**

#### **51. Oral compliance direction**

- (1) If, in the opinion of an authorised person, a person engages in conduct that is, or is preparatory to, a contravention of this local law, and is capable of being immediately stopped or remedied, an authorised person may, in addition to taking any other action that an authorised person may take under this local law, give that person an oral compliance direction to do either or both of the following—
  - (a) immediately stop the conduct; or
  - (b) take specified action to remedy the contravention.

*Example—*

If a person does not keep a dog on a leash in contravention of this local law, an authorised person may require the person to bring the dog under effective control.

- (2) A person must comply with an oral compliance direction unless the person has a reasonable excuse.

Maximum penalty for subsection (2)—20 penalty units.

#### **52. Compliance notice**

- (1) An authorised person may give a compliance notice to a person if an authorised person is satisfied on reasonable grounds that—
  - (a) the person—
    - (i) is contravening this local law; or
    - (ii) has contravened this local law in circumstances that make it likely that the contravention will continue or be repeated; and
  - (b) the person is able to remedy a matter relating to the contravention; and

- (c) it is, in the authorised person's discretion, appropriate to give the person an opportunity to remedy the matter.

- (2) A compliance notice must—
  - (a) be in writing; and
  - (b) state—
    - (i) the particular provision of this local law or condition of any permit under this local law that an authorised person believes is being, or has been, contravened; and
    - (ii) briefly, how it is believed that the provision of this local law or condition of a permit under this local law is being, or has been, contravened; and
    - (iii) the time by which the recipient of the compliance notice must comply with the compliance notice; and
    - (iv) that it is an offence to fail to comply with the compliance notice; and
    - (v) the maximum penalty for failing to comply with the compliance notice; and
  - (c) include, or be accompanied by, an information notice.
- (3) The time stated under subsection (2)(b)(iii) must be reasonable having regard to—
  - (a) the action required to remedy the contravention; and
  - (b) any risk—
    - (i) to public health and safety; or
    - (ii) of damage to property; or
    - (iii) of loss of amenity; or
    - (iv) of environmental harm,  
posed by the contravention; and
  - (c) how long the recipient has been aware of the contravention.
- (4) A person who is given a compliance notice must comply with the compliance notice.  
Maximum penalty—50 penalty units.
- (5) A compliance notice may be given under this section regardless of whether any person is prosecuted or convicted, or otherwise the subject of enforcement action, for a contravention of, or offence against, this local law or any other law, including of the State or Commonwealth.

### 53. Notice to remove

- (1) If a person fails to comply with a compliance notice an authorised person may, in addition to taking any other action that an authorised person may take under this local law, give a notice requiring the person to remove the animal which is the subject of the compliance notice (a **notice to remove**).

- (2) A notice to remove must—
  - (a) be in writing; and
  - (b) state—
    - (i) the time by which the animal is to be removed; and
    - (ii) that the animal must not be moved to another place unless—
      - (A) Council is given prior notification of the proposed address of the premises where the animal is to be moved; and
      - (B) Council consents to the animal being moved to that place.
- (3) A person who is given a notice to remove must comply with a notice to remove an animal.  
Maximum penalty for subsection (3)—50 penalty units.

#### 54. Information notices

An information notice must state—

- (1) Council's decision; and
- (2) the reasons for the decision; and
- (3) that the person to whom the information notice has been given may have the decision reviewed; and
- (4) how the decision can be reviewed; and
- (5) if the decision is about suspending or cancelling a permit—a direction to the person to return the permit to Council and remove the animal within 7 days of receiving the information notice.

#### 55. Show cause notices

- (1) A show cause notice must state—
  - (a) the action Council proposes to take (the **proposed action**); and
  - (b) the grounds for the proposed action; and
  - (c) an outline of the facts and circumstances forming the basis for the grounds for the proposed action; and
  - (d) if the proposed action is suspension of the permit—the proposed suspension period; and
  - (e) that the person may, within a stated period (the **show cause period**), make written submissions to show why the proposed action should not be taken.
- (2) The show cause period must end not less than 21 days after the show cause notice is given.

## **56. Notice of impounding**

- (1) A notice of impounding must state—
  - (a) the animal has been impounded; and
  - (b) the animal may be reclaimed within the prescribed period, provided that—
    - (i) any cost recovery fee fixed by resolution of Council is paid; and
    - (ii) if a permit, registration or permanent identification mark is required—the permit, registration or permanent identification mark is obtained; and
    - (iii) if a compliance notice is issued—the keeper has complied with the compliance notice; and
    - (iv) continued retention of the animal is not needed as evidence for a proceeding, or proposed proceeding, for an offence involving the animal; and
    - (v) no destruction order has been made for the animal.
- (2) A notice of impounding may be given by an authorised person in writing or orally.

## **57. Destruction order**

- (1) A destruction order must—
  - (a) be served on the keeper of the animal; and
  - (b) include, or be accompanied by, an information notice.
- (2) A destruction order must—
  - (a) be in writing; and
  - (b) state—
    - (i) a destruction order has been made for the animal; and
    - (ii) that an authorised person proposes to destroy the animal within 14 days after the order is served on the keeper of the animal; and
    - (iii) an outline of the facts and circumstances forming the basis for the grounds for the destruction order.

# **Part 6 Review of decisions and legal proceedings**

## **Division 1 Review of decisions**

### **58. Application for review of decisions**

- (1) A person who is given, or is entitled to be given, an information notice in relation to an original decision may make a review application to

Council's chief executive officer under this section.

- (2) A review application must be made within 14 days of—
  - (a) if the person was given an information notice for the original decision—the day the person is given the information notice; or
  - (b) if the person was not given an information notice for the original decision—the day the person otherwise becomes aware of the original decision.
- (3) Council may, at any time, extend the time for making a review application.
- (4) The review application must be—
  - (a) in writing; and
  - (b) accompanied by the prescribed fee; and
  - (c) accompanied by a statement of the grounds on which the person seeks a review of the original decision; and
  - (d) supported by enough information to enable Council to decide the review application.

#### **59. Review decision by Council**

- (1) Subject to subsection (2), Council must, within 28 days after receiving a review application, make a review decision to—
  - (a) confirm the original decision; or
  - (b) amend the original decision; or
  - (c) substitute another decision for the original decision.
- (2) If Council requires more time to consider a review application, Council must, within 28 days after receiving a review application, provide a notice to the applicant stating the date, which must not be more than 60 days after the day Council received the review application, by which Council will make a review decision.
- (3) The review application must not be dealt with by—
  - (a) the person who made the original decision, whether or not the person was exercising a delegated power in making the original decision; or
  - (b) a person holding a less senior office than the person who made the original decision, unless the original decision was made by the chief executive officer.
- (4) Council must, within 14 days after making a review decision, give the applicant—
  - (a) written notice of the review decision; and
  - (b) if the review decision is not the decision outcome sought by the applicant—a written statement of reasons for the review decision.
- (5) If Council does not comply with subsections (1) or (4), Council is deemed

to have made a review decision confirming the original decision.

**60. Stay of operation of original decision**

- (1) A review application will stay the original decision that is the subject of the review application, unless Council provides written notice to the contrary.
- (2) However, a person who is given, or is entitled to be given, an information notice for an original decision may, at any time after the original decision is made, apply to the Magistrates Court for a stay of the original decision.

**Division 2 Appeals against destruction orders**

**61. Who may appeal**

A keeper of an animal which is the subject of a destruction order may appeal to the Magistrates Court against Council's decision to make the destruction order, unless another keeper of the animal has already started such an appeal.

**62. Starting appeal**

- (1) An appeal must not be started unless a review of the decision to make the destruction order has been finally decided or has otherwise ended.
- (2) An appeal may be started by—
  - (a) filing a notice of appeal with the Magistrates Court; and
  - (b) serving a copy of the notice of appeal on Council; and
  - (c) complying with the rules of court applicable to the appeal.
- (3) The notice of appeal must be filed within 14 days after the keeper of an animal is given notice by Council about the finalisation of the review of Council's decision to make the destruction order.
- (4) The Magistrates Court may, at any time prior to the animal being destroyed under section 44, extend the time for filing the notice of appeal.
- (5) The notice of appeal must state fully the grounds of the appeal and the facts relied on.

**63. Stay of destruction order**

Upon service of a notice of appeal, the relevant destruction order is stayed until the appeal is finally decided or is otherwise ended.

**64. Court's powers on appeal**

- (1) In deciding an appeal, the Magistrates Court may—
  - (a) confirm the decision appealed against; or
  - (b) set aside the decision appealed against and substitute another decision; or
  - (c) set aside the decision appealed against and return the matter to

Council, with such directions as the court considers appropriate.

- 
- (2) The Magistrates Court may set aside the decision appealed against if the Magistrates Court is satisfied that there was no legal basis for making the decision.
  - (3) If the Magistrates Court is satisfied that there was a legal basis for making the decision appealed against, the Magistrates Court may only set aside the decision if it is satisfied that—
    - (a) the keeper of the animal will ensure that—
      - (i) in future, the animal is kept and managed in accordance with this local law; and
      - (ii) the circumstances that led to the making of the destruction order are unlikely to recur; and
      - (iii) if a previous destruction order in respect of the animal has been set aside, other than under subsection (2)—that there are exceptional circumstances justifying why the decision appealed against should be set aside; and
    - (b) if a prohibited animal is the subject of the destruction order, that—
      - (i) the animal will be permanently removed from Council's local government area within 2 days of the decision being set aside; and
      - (ii) the keeper of the animal has produced to the Magistrates Court a written statement, signed by the chief executive officer or another appropriate officer of the local government in whose area the animal will be kept in future, which confirms that the other local government—
        - (A) is aware of the species, breed and type of the animal; and
        - (B) is aware that the animal is a prohibited animal under this local law; and
        - (C) nonetheless consents to the animal being brought into its local government area.
  - (4) In making a decision under subsection (2), the Magistrates Court ought to have regard to the following matters—
    - (a) whether the animal has been involved in any previous attacks; and
    - (b) the seriousness of any attacks by the animal; and
    - (c) the impact of any attacks by the animal on the victims of those attacks; and
    - (d) any other matters that the Magistrates Court considers relevant in the circumstances.
  - (5) If the Magistrates Court substitutes another decision under subsection (1)(b), the substituted decision is, for the purposes of this local law other than this Part, taken to be Council's decision.

**65. Withdrawal of appeal**

A keeper of the animal may withdraw an appeal against a decision to make a destruction order at any time prior to the hearing of the appeal.

**66. Costs of appeal**

- (1) In deciding an appeal, the Magistrates Court may, subject to subsection (2), make an order in relation to the costs of the appeal.
- (2) The Magistrates Court may only make an order for costs of the appeal against Council if the Magistrates Court is satisfied that there was no legal basis for making the decision appealed against.

**67. Vacating decision to set aside destruction order**

Council may make an *ex parte* application to the Magistrates Court to vacate a decision to set aside a destruction order, and any substituted decision made by the Magistrates Court, if a keeper of the animal the subject of the destruction order does not reclaim the animal within 14 days of the Magistrates Court's decision.

**68. Appeal to District Court**

An appeal lies to the District Court from a decision of a Magistrates Court in relation to an appeal under this Division, but only on a question of law.

**Division 3 Evidence in legal proceedings**

**69. Evidence**

In any proceedings under or in relation to this local law, a certificate purporting to be signed by the chief executive officer or a delegate of the chief executive officer, stating any 1 or more of the following matters is taken to be conclusive evidence of that matter—

- (1) of the state of, or a fact appearing from, a Council record;
- (2) that on a stated day, or during a stated period, a stated person was or was not the holder of a permit under this local law;
- (3) that a stated document is a true copy of a notice, declaration or order given under this local law;
- (4) that on a stated day, a stated person was given a stated notice, declaration or order under this local law.

**70. Evidentiary provisions for animal noise**

- (1) This section applies to a proceeding for a contravention of section 20 or the minimum standards about noise in which more than 1 animal was present at the premises where the noise nuisance is alleged to have occurred.

- (2) An authorised person may give evidence of a breach of section 20 or the minimum standards relating to noise without any requirement to prove which animal caused the noise, or whether the noise was caused by more than 1 animal.

**71. No liability for acts undertaken honestly and in good faith**

The *City of Brisbane Act 2010*, including, without limitation, section 216 applies to the undertaking by Council of acts in accordance with this local law.

**72. Primacy of *Animal Management (Cats and Dogs) Act 2008* processes**

Except as expressly stated, the provisions of this local law, including, but not limited to those processes set out in parts 3, 4 and 5 apply to dogs, except to the extent of any inconsistency with the *Animal Management (Cats and Dogs) Act 2008*.

**73. Service/Giving of Notices**

Except as expressly stated, sections 39 and 39A of the *Acts Interpretation Act 1954* apply to the extent Council serves or gives a notice to a person under this local law, for the calculation of relevant time periods in this local law.

## **Part 7 Miscellaneous**

**74. No right to compensation**

The exercise by Council in good faith of any authority conferred upon it by this local law does not give rise to a claim for compensation by any person.

## **Part 8 Repeal and transitional provisions**

### **Division 1 Repeal**

**75. Repeal**

The *Animals Local Law 2003* and *Animals Subordinate Local Law 2003* are repealed.

### **Division 2 Transitional provisions**

**76. Existing approval**

- (1) An existing approval in force immediately before the commencement of this local law or issued under the repealed *Animals Local Law 2003* or the repealed *Animals Subordinate Local Law 2003* continues in force as an approval under this local law until the earlier of—
- (a) the time stated in the approval or under the law according to which the approval was issued; or

- (b) if no term is specified in the approval—1 year from the date the approval was granted; or
  - (c) the date that the approval is cancelled or suspended under this local law.
- (2) Any conditions attached to the existing approval continue to apply during the term of the existing approval.

## Schedule 1      Dictionary

### Section 3

**affiliated organisation** means an entity accepted by Council to be an affiliated organisation.

**animal** means any live member of a vertebrate species, including any mammal, reptile, amphibian, bird or fish, but does not include human beings or an animal of a species excluded from the application of this local law.

**approval** includes a consent, permission, licence, permit (whether issued or granted under this local law or otherwise) or authorisation.

**approved form** means a form approved by Council for use under this local law.

**authorised person** means an appropriately qualified person appointed by Council to exercise the powers and functions of an authorised person under this local law.

**attack**, by an animal, includes—

- (a) to approach, chase, menace or rush at a person, animal or thing in such a manner as to endanger any person or animal whether or not the attacking animal actually contacts or bites the person, animal or thing;
- (b) holding any part of a person, animal or person's property in its mouth, whether or not—
  - (i) the holding is accompanied by shaking, pulling or pushing;
  - (ii) the person, animal or property suffers any injury;
- (c) causing bodily harm to a person or an animal;
- (d) for an attack on a person—tearing clothing on a person, or otherwise causing damage to property on the immediate person of, the person.

**bodily harm** has the meaning given to it by the *Criminal Code Act 1899*.

**breeder** means a keeper who is accredited by an affiliated organisation to breed animals under an accreditation scheme conducted by the affiliated organisation or is registered as a breeder under the *Animal Management (Cats and Dogs) Act 2008*.

**chief executive officer** has the meaning given by the *City of Brisbane Act 2010*.

**compliance notice** means a notice given under section 52.

**Council** means the Brisbane City Council established under the *City of Brisbane Act 2010*.

**declared regulated animal** means an animal declared in accordance with section 30.

**desex** has the meaning given by the *Animal Management (Cats and Dogs) Act 2008*.

**designated pest** has the meaning given by the *Public Health Act 2005* and includes flies.

**destroy** refers to the actual destruction of an animal.

**destruction order** means an order given under section 57.

**development approval** means a development approval issued by Council under the *Planning Act 2016* and *Brisbane City Plan 2014*, as amended from time to time, for

animal keeping.

**dog** means an animal of the species *Canis lupus familiaris*, or a domestic dog.

**effective control** means, in relation to—

- (a) a dog in an off leash area, the dog—
  - (i) is under the supervision of a person who is able to control the animal; and
  - (ii) is not engaging in any behaviour which could reasonably harass, cause damage or other injury to another person or animal in the off leash area; or
- (b) any animal, other than a dog in an off leash area—
  - (i) a person who—
    - (A) is physically able to control the animal, whether on its own or in combination with any other animals under that person's control; and
    - (B) understands the responsibility of keeping the animal under control—
      - (1) is holding it by an appropriate leash, halter or rein; or
      - (2) has appropriately tethered it to an object fixed to a place from which the object cannot be moved by the animal and is continuously supervising the animal; or
      - (3) has corralled it in a temporary enclosure adequate to contain the animal and is continuously supervising the animal; or
  - (ii) the animal is confined or tethered in, or on, a vehicle and unable to reach beyond the vehicle extremities; or
  - (iii) the animal is participating in, or being exhibited or trained at, an exhibition, racing meet, racing trial or an obedience trial, supervised by a body recognised by Council for this activity.

**enclosure** means a building, barrier, structure or other thing in which an animal is enclosed which is appropriate to prevent the animal from going over, under, through or otherwise escaping from it.

**environmental harm** has the meaning given by the *Environmental Protection Act 1994*.

**grievous bodily harm** has the meaning given to it by the *Criminal Code Act 1899*.

**guard dog** means a dog which is released on commercial premises without a handler for the purpose of acting as a deterrent to intruders.

**information notice**, for a decision, means a written notice issued in accordance with section 54.

**keep** (an animal) includes own, board, breed, foster or train.

**keeper** of an animal means any of the following persons—

- (a) an owner of the animal; or

- (b) a person who has, or whose employee acting within the scope of their employment has, the immediate custody and control of the animal; or
- (c) an occupier of the place at which the animal is ordinarily kept, unless another adult who lives at that place usually keeps the animal; or
- (d) for an animal that is a guard dog—
  - (i) the registered owner of the land on which the guard dog is released; or
  - (ii) the occupier of the land on which the guard dog is released; or
  - (iii) the proprietor of the business carried out on the land where the guard dog is released; or
  - (iv) the person who provides, or whose employee acting within the scope of their employment provides, the guard dog; or
- (e) if a keeper mentioned in paragraphs (a) to (d) above is a minor—a parent or guardian of that minor.

**livestock** means any animal (including any variants/miniatures of any animal) which can be farmed, whether kept for farming or domestic purposes, and includes—horses, cattle, pigs, goats, sheep, deer, poultry, emus, ostriches, peafowls and alpacas.

**Magistrates Court** means the Magistrates Court of Queensland.

**minimum standards** mean those minimum standards for the keeping of animals set out in Schedule 5.

**notice of appeal** means a notice of appeal to the Magistrates Court under Part 6, Division 2 in relation to a decision to make a destruction order.

**notice of impounding** means a notice issued in accordance with section 56.

**notice to remove** has the meaning given to it by section 53(1).

**off leash area** means any area of the City of Brisbane designated by Council as an off leash area.

**original decision** means a decision for which Council is required by this local law to give an information notice.

**owner** means a person who is—

- (a) a person recorded as being the owner of the animal in a registry kept by Council; or
- (b) a person who owns the animal in the sense of it being that person's personal property; or
- (c) a person who holds a permit for the animal; or
- (d) a person who usually keeps the animal, including through an agent, employee, foster carer or anyone else.

**permit** means a permit to keep an animal under this local law.

**permanent identification mark** means a mark placed on or under the skin of an animal to permanently identify it, and includes a tattoo, brand, implanted microchip bearing an electronic code or a PPID.

**pound** means a premises maintained for the purposes of impounding animals to the extent it provides shelter for an animal that is homeless, lost, seized or stray, and a Council rehoming centre.

**PPID** has the meaning given to it by the *Animal Management (Cats and Dogs) Act 2008*.

**prescribed fees** includes any fees and charges set by Council resolution.

**prescribed period** means the period for reclaiming an animal under section 40—

- (a) of not less than—
  - (i) if the animal is registered with Council or another local government—5 days; or
  - (ii) if the animal is not registered with Council or another local government—3 days; or
  - (iii) if the animal has a permanent identification mark—5 days; or
  - (iv) if the animal does not have a permanent identification mark—3 days; and
- (b) commencing on the latest of—
  - (i) if a notice of impounding is given to a keeper of the animal—the day that the notice of impounding is given; or
  - (ii) if no notice of impounding is given to a keeper of the animal—the day the animal was seized; or
  - (iii) if the animal was seized under section 32(1)(b)—the day stated in the compliance notice by which the compliance notice must be complied with; or
  - (iv) if section 40(3)(b) applies—the day that an authorised person advises a keeper of the animal that the animal's continued retention is no longer required; or
  - (v) if section 40(3)(d) applies, the day that the review or appeal is finally decided or otherwise ends.

**prohibited animal** means an animal which is prohibited under section 5.

**public place** has the meaning given by the *City of Brisbane Act 2010*.

**racehorse** means a horse which is kept for, or in connection with, the business or sport of horse racing or trotting.

**register** has the meaning given to it in section 49(1).

**registration number** means the number allocated to a dog by Council following the registration process mandated in the *Animal Management (Cats and Dogs) Act 2008*.

**regulated dog** has the meaning given by the *Animal Management (Cats and Dogs) Act 2008*.

**rehome** means to find a new home for an animal.

**relevant supply number** has the meaning given by the *Animal Management (Cats and Dogs) Act 2008*.

**residential area** means land that is lawfully used for accommodation activities as defined in *Brisbane City Plan 2014*, except where the land is contained within the rural zone or rural residential zone.

**review** means a review of a decision under Part 6, Division 1.

**review application** means an application to Council's chief executive officer in accordance with section 58 for review of an original decision.

**review decision** means a decision by Council in accordance with section 59 in relation to a review application.

**seriously attack** means to attack in a way which causes bodily harm, grievous bodily harm or death.

**show cause notice** means a notice given under section 17(2) and section 18(2) in accordance with section 55.

**show cause period** has the meaning given to it in section 55(1)(e).

**third party certifier** means an individual or organisation that, for the purposes of section 12—

- (a) is accepted by Council to be a third party certifier; or
- (b) has the necessary qualifications prescribed to provide a certificate, about a particular matter which Council must be satisfied about, or have regard to, before granting a permit under section 9.

**wandering at large** means—

- (a) being on a public place while not being under effective control; or
- (b) being on any other land (other than the land upon which the animal is ordinarily kept) while not being under effective control; or
- (c) being on any other land without the consent of the owner or occupier of that land.

**waste** includes faeces, urine, used bedding and any other waste generated by an animal or otherwise arising from the keeping of an animal.

**writing** includes electronic transmission of information.

## Schedule 2      **Circumstances in which keeping an animal is prohibited**

### Section 5

Item	Column 1 Animal	Column 2 Circumstances in which keeping an animal is prohibited
1	Dog	<p>The keeping of a dog is prohibited if—</p> <ul style="list-style-type: none"><li>(a) the dog is a restricted dog as defined by the <i>Animal Management (Cats and Dogs) Act 2008</i>; or</li><li>(b) the dog—<ul style="list-style-type: none"><li>(i) has been relocated to the City of Brisbane from another local government in Queensland or interstate; and</li><li>(ii) in the opinion of an authorised person, poses a significant risk to the safety of people or other animals; or</li></ul></li><li>(c) the dog is to be kept with more than 4 dogs over the age of 3 months, unless the keeper is a breeder.</li></ul>
2	Rooster	The keeping of a rooster in a residential area is prohibited.

## Schedule 3      Circumstances in which keeping an animal requires a permit

### Section 6

Item	Column 1 Animal	Column 2 Circumstances in which keeping an animal requires a permit
1	Any animal	A keeper of the animal has been convicted of an offence under this local law at any time in the preceding 12 months.
2	Dog	In addition to any circumstances described under item 1, the keeping of a dog requires a permit if 3 or more dogs are kept.
3	Racehorse	In addition to any circumstances described under item 1, the keeping of a racehorse requires a permit.
4	Cat	In addition to any circumstances described under item 1, the keeping of a cat requires a permit if 4 or more cats are kept.
5	Livestock	In addition to any circumstances described under item 1, the keeping of livestock in a residential area requires a permit.

#### Notes—

- (1) Council no longer issues permits for pet shop operators, guard dog keepers and the breeding of dogs and cats.
- (2) The *Animal Management (Cats and Dogs) Act 2008* requires dog breeders to be registered with the Queensland Government thereby removing the requirement for a Council permit for breeding dogs.
- (3) Animals, including dogs and cats, must be kept in accordance with the minimum standards.
- (4) Where breeding results in 4 or more cats or 3 or more dogs being kept, a permit will continue to be required under this Schedule 3.
- (5) The Queensland Code of Practice for Pet Shops outlines acceptable standards for managing animal species for sale at pet shops.
- (6) A permit for keeping a guard dog is not required by this local law. A guard dog must be kept in accordance with the minimum standards.

## Schedule 4      **Circumstances in which a permit will not ordinarily be granted**

Section 9(3)

Item	Column 1 Animal	Column 2 Circumstances in which a permit will not ordinarily be granted
1	Dogs (The keeping of a dog requires a permit if 3 or more dogs are kept.)	<p>A permit will not ordinarily be granted in any 1 or more of the following circumstances—</p> <ul style="list-style-type: none"> <li>(a) the dog is to be kept in a dwelling other than a single detached dwelling;</li> <li>(b) another local government has previously refused to grant a keeper of the dog a similar type of approval;</li> <li>(c) the area of the premises on which the dog is to be kept is less than 400 m<sup>2</sup>;</li> <li>(d) the— <ul style="list-style-type: none"> <li>(i) dog is to be kept on premises with 2 or more dogs; and</li> <li>(ii) dog and all other dogs to be kept on the premises have not been desexed; and</li> <li>(iii) keeper is not a breeder.</li> </ul> </li> </ul>
2	Cats (The keeping of a cat requires a permit if 4 or more cats are kept.)	<p>A permit will not ordinarily be granted in any 1 or more of the following circumstances—</p> <ul style="list-style-type: none"> <li>(a) the cat is to be kept in a dwelling other than a single detached dwelling;</li> <li>(b) another local government has previously refused to grant a keeper of the cat a similar type of approval;</li> <li>(c) the area of the premises on which the cat is to be kept is less than 400 m<sup>2</sup>;</li> <li>(d) the— <ul style="list-style-type: none"> <li>(i) cat is to be kept on premises with 3 or more cats; and</li> <li>(ii) cat and all other cats to be kept on the premises have not been desexed; and</li> <li>(iii) keeper is not a breeder.</li> </ul> </li> </ul>

3	Racehorse	<p>A permit will not ordinarily be granted in any 1 or more of the following circumstances—</p> <ul style="list-style-type: none"><li>(a) the keeping of the racehorse will, or is likely to, cause environmental harm;</li><li>(b) the keeping of the racehorse will, or is likely to, cause a risk to the health or safety of a person or other animal;</li><li>(c) another local government has previously refused to grant a keeper of a racehorse a similar type of approval.</li></ul>
4	Livestock	<p>A permit will not ordinarily be granted in any 1 or more of the following circumstances—</p> <ul style="list-style-type: none"><li>(a) the keeping of the livestock will, or is likely to, cause environmental harm;</li><li>(b) the keeping of the livestock will, or is likely to, cause a risk to the health or safety of a person or another animal;</li><li>(c) another local government has previously refused to grant a keeper of the livestock a similar type of approval.</li></ul>

## Schedule 5 Minimum standards for keeping animals

### Section 19

<b>Part 1—All animals</b>	
1	The animal must be fully vaccinated according to the program recommended for the particular animal by the Australian Veterinary Association.
2	All animals and any other items or waste that relate to the keeping of the animal must be kept or disposed of in a manner that does not— (a) cause environmental harm; or (b) give rise to a breeding place for designated pests; or (c) cause a nuisance; or (d) cause a risk to the health or safety of a person or another animal.
<b>Part 2—Dogs</b>	
In addition to any minimum standards prescribed under Part 1, a dog must be kept in accordance with the following minimum standards—	
3	The keeper must provide an enclosure that is— (a) adequate to keep the dog contained on the premises; (b) constructed— (i) of materials which are of sufficient strength and design to prevent the animal from escaping over, under or through it; and (ii) to a height which is sufficient to prevent the dog from jumping or climbing over; and (iii) with gates that can be closed and latched to prevent the dog escaping; and (c) where required to ensure that paragraph (a) is complied with— accompanied by a barrier underneath the enclosure that is adequate to prevent the dog from escaping the premises by digging underneath the enclosure.
4	A bitch on heat must not enter— (a) a public place; or (b) a private place without the permission of the occupier.
<b>Part 3—Guard dogs</b>	
In addition to any minimum standards prescribed under Part 1 and Part 2, a guard dog must be kept in accordance with the following minimum standards—	

5	A guard dog must be kept in an enclosure which is adequate to prevent the dog from escaping.
6	A conspicuous warning sign must be displayed at all times at each entrance to the premises where a guard dog is being kept or used, with the words "BEWARE — DANGEROUS GUARD DOG" and a 24-hour contact number in readily legible lettering that is not less than 50 mm in height.
7	A guard dog must be kept under effective control at all times when the premises are open to access by the public.
<p style="text-align: center;"><b>Part 4—Livestock</b></p> <p>In addition to any minimum standards prescribed under Part 1, livestock must be kept in accordance with the following minimum standards—</p>	
8	The animal must be kept in an enclosure which is adequate to prevent the animal from wandering at large.
9	<p>The keeping of the animal, in combination with the keeping of any other animals on the premises, must not have an adverse impact on—</p> <ul style="list-style-type: none"> <li>(a) the ability of occupiers of other premises in the locality to carry out the ordinary activities of the relevant locality; or</li> <li>(b) amenity of the relevant locality; or</li> <li>(c) health or safety of people or other animals.</li> </ul>
<p style="text-align: center;"><b>Part 5—Horses</b></p> <p>In addition to any minimum standards prescribed under Part 1 and Part 4, horses must be kept in accordance with the following minimum standards—</p>	
10	<p>The keeper of a stallion must take all measures necessary to ensure that the stallion is kept in an enclosure which is adequate to prevent it from—</p> <ul style="list-style-type: none"> <li>(a) escaping; or</li> <li>(b) attacking any person or other animal.</li> </ul>
<p style="text-align: center;"><b>Part 6—Poultry</b></p> <p>In addition to any minimum standards prescribed under Part 1 and Part 4, poultry must be kept in accordance with the following minimum standards—</p>	
11	Poultry enclosures must be located in a position which will minimise any adverse impacts of the keeping of poultry on the occupiers of neighbouring premises.
12	Poultry enclosures must not be located within 1 metre of any dividing fence.

13	<p>If poultry are kept in a residential area—</p> <p>(a) on premises 0-800 m<sup>2</sup>—no more than 6 birds may be kept at any time;</p> <p>(b) on premises &gt;800 m<sup>2</sup>—no more than 20 birds may be kept at any time.</p>
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