

NORTHERN TERRITORY OF AUSTRALIA

PALMERSTON (ANIMAL MANAGEMENT) BY-LAWS 1999

As in force at 1 July 2008

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 1 July 2008

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By-laws under the *Local Government Act 2008*

Part 1 Preliminary

Division 1 General

1 Citation

These By-laws may be cited as the *Palmerston (Animal Management) By-laws 1999*.

2 Application and purpose of By-laws

- (1) These By-laws apply to and are in force within the whole of the municipality.
- (2) The purpose of these By-laws is to provide for the keeping of animals within the municipality in a manner compatible with the enjoyment by residents of a congenial living environment.

3 Crown to be bound

These By-laws bind the Crown in right of the Territory.

4 Interpretation

- (1) In these By-laws, unless the contrary intention appears:

abandon, in relation to a dog, includes deliberately leaving the dog at premises and failing to obtain the release of the dog from a pound.

animal means an animal that is kept in the municipality, and includes dogs, cats, birds and reptiles.

appropriate fee means the fee determined by the council to be the fee for a licence, registration or other matter or for a class of licence, registration or other matter.

approved means approved by the council by resolution.

attack, in relation to the actions of a dog, means an action of a dog that involves the dog rushing at, biting, chasing, menacing or worrying a person or another animal and, in so doing, the dog actually touches the person or other animal or the clothing or other property in the immediate possession or under the immediate control of the person, whether or not any injury or damage occurs to the person, animal or property.

council means the Palmerston Town Council.

determined means determined by the council by resolution.

dog means an animal of the genus *Canis*.

dog exercise area means a dog exercise area declared under by-law 29.

dog restriction area means a dog restriction area declared under by-law 29.

dog-tag means a dog-tag issued under by-law 24.

guide dog means a dog trained by a guide dog training institution approved by the council and used as a guide by a person who is wholly or partially blind or deaf.

identification device means a device or mark used for identifying a dog registered under these By-laws and includes a dog-tag, permanent electronic subcutaneous implant, tattoo or other approved device or mark.

licence means a licence granted under these By-laws for the keeping of dogs on the premises in respect of which the licence is granted, and includes a renewal of a licence.

menace, in relation to the actions of a dog, means an action that creates a reasonable apprehension in a person that the dog is likely to attack the person, another person or an animal owned or in the control of the first-mentioned person and includes a reasonable apprehension that the dog may escape or be released from restraint to attack a person or the animal.

municipality means the municipality of Palmerston.

owner, in relation to:

- (a) an animal (except a dog) means, in the absence of proof to the contrary, the person for the time being in control of the animal; and
- (b) a dog, means the person whose name appears in the register as the owner of the dog or the person for the time being in control of the dog.

permanent electronic subcutaneous implant means an electronic device that can be implanted into the tissue of an animal for the purpose of identifying the animal.

pound means a pound established or maintained in accordance with Division 8 of Part 3.

pound supervisor means a person appointed to be a supervisor of a pound under by-law 44(2).

premises includes a building and land (whether built on or not).

public place includes:

- (a) every place to which free access is permitted to the public, with the express or tacit consent of the owner or occupier of the place;
- (b) every place to which the public are admitted on payment of money, the test of the admittance being the payment of the money only;
- (c) every road, street, footway, court, alley, thoroughfare or cul-de-sac which the public are allowed to use, notwithstanding that the road, street, footway, court, alley, thoroughfare or cul-de-sac may be formed on private property; and
- (d) land reserved under a law of the Territory for the use of the public or a member of the public.

register means a register established under by-law 7.

registrar means the person appointed under by-law 6 to be the registrar.

registered owner, in relation to a dog, means the person specified in the appropriate register as the owner of the dog.

repealed By-laws means the *Palmerston (Animal Control) By-laws 1992* repealed by these By-laws.

vehicle means a conveyance or other device designed to be propelled or drawn by any means and includes a bicycle, tricycle, motor vehicle, trailer and an animal being driven or ridden, but does not include a train or a motorised wheelchair that is not capable of travelling at a speed greater than 10 km/h.

veterinarian means a registered veterinarian within the meaning of the *Veterinarians Act 1994*.

- (2) A reference in these By-laws to a dog at large is a reference to a dog, other than a dog in the custody of an authorised person or in a pound, in a place other than premises owned or occupied by the owner of the dog.
- (3) For the purposes of these By-laws, a dog is under effective control if the dog is:
 - (a) restrained by a leash, cord, chain or similar device that is not longer than 3 metres and that is held by a person who is 12 years of age or more and is competent to restrain the dog;
 - (b) enclosed in a vehicle (which includes being in or on the back of a flat topped, tray backed or well bodied vehicle) in such a manner that no part of the dog is projecting from the vehicle;
or
 - (c) in a dog exercise area in accordance with the conditions, if any, to which use of the area is subject and the dog is not a female dog in oestrus.

5 Determinations of council

- (1) Where the council makes a determination under this by-law, it is to publish a notice of its making in a newspaper circulating in the municipality as soon as practicable after the determination is made.
- (2) The council may determine the charges, dues and fees in relation to an animal, undertaking, service, matter or thing referred to in these By-laws.
- (3) Where the council, in exercise of a power or function under these By-laws, whether within or outside the municipality:
 - (a) supplies a service, product or commodity;
 - (b) grants a licence;

- (c) makes a registration;
- (d) furnishes information;
- (e) receives an application;
- (f) permits inspection of a register;
- (g) allows the use of real or personal property of or under its care;
or
- (h) takes any other action in relation to which a determination is
made,

it may demand and recover the relevant amount determined under clause (2).

- (4) The council may make determinations in relation to a matter or thing set out in Column 1 of Schedule 1 and, for that purpose, may take into account a matter specified in Column 2 of that Schedule.

6 Registrar

The council may appoint a person to be the registrar for the purposes of these By-laws.

7 Registers

- (1) The registrar is to keep the number of registers that the council determines.
- (2) The registrar may keep a register in the medium or combination of mediums as the registrar thinks fit, including a computer, microfilm or paper.
- (3) The registers kept under the repealed By-laws form part of the registers kept under these By-laws.
- (4) The information recorded in the register or registers kept under these By-laws is to include the particulars of:
 - (a) all dogs registered by the council;
 - (b) all licences granted by the council; and
 - (c) all offences against these By-laws:
 - (i) of which a registered owner of a dog has been found guilty; or

- (ii) in respect of which a registered owner of a dog has paid a sum specified by these By-laws in pursuance of an infringement notice issued under these By-laws.

8 Matters of evidence

- (1) An extract from or copy of an entry in a register purported to be signed by the registrar is, in all courts and on all occasions, evidence of the signature of the registrar and of the particulars contained in the entry without requiring the production of the register.
- (2) A statement signed by the registrar concerning particulars of entries in a register including:
 - (a) whether the name of the person was entered in a register in relation to an animal, matter or thing; or
 - (b) whether a licence has been granted or registration made,is to be received in a court, the Tribunal or by a person acting judicially as evidence of the signature of the registrar and of those particulars without requiring the production of the register.

Division 2 Licences and registrations

9 Definition

In this Division, *licence* includes registration.

10 Application for licences

- (1) A person may apply to the clerk for the issue of a licence required under these By-laws.
- (2) An application is to be:
 - (a) in accordance with the approved form;
 - (b) accompanied by the appropriate fee; and
 - (c) accompanied by the documents, specifications or particulars that the council requires.

11 Grant of licences etc.

- (1) The council may grant or re-new, or refuse to grant or re-new, a licence.

- (2) Subject to clause (3), a licence remains in force for:
 - (a) the period of 12 months commencing on the date of the grant of the licence; or
 - (b) if a lesser period is endorsed on the licence – that period.
- (3) Registration of a dog expires on 30 June each year or, if the council determines, on the anniversary of the first registration of the dog.
- (4) A licence may be subject to the conditions the council thinks fit and endorses on the licence including conditions that may lead to immediate revocation of the licence if they are breached or not complied with.
- (5) A licence is not transferable.

12 Compliance with conditions of licence

A condition of a licence is to be complied with by the person to whom the licence is granted.

Division 3 Regulatory

13 Compliance with notices

A requirement of a notice served under these By-laws is to be complied with by the person on whom it is served.

14 Obstruction of officers etc.

A person who obstructs or hinders an authorised person or officer or employee of the council, a contractor or sub-contractor to the council or an employee of the contractor or sub-contractor in the proper execution of his or her work or duty under these By-laws commits an offence.

15 False statements in documents

A person who, in making a statement required or permitted to be made in a document under these By-laws, knowingly makes a false statement commits an offence.

16 General penalty

Subject to by-laws 42 and 49, a person who commits an offence against these By-laws is liable on a finding of guilt to a penalty not exceeding \$3,000 and, in addition, to a penalty not exceeding \$100 for each day during which the offence continues after the first day on which the offence was committed.

17 Infringement notice and payment of sum in lieu of penalty

- (1) Despite by-law 16, as an alternative to prosecution, a person who is alleged to have contravened or failed to comply with these By-laws may be served with an infringement notice under which the person may pay to the council a sum (***fixed penalty***) in lieu of the penalty by which the infringement of the By-laws is otherwise punishable.
- (2) For the purposes of this by-law:
 - (a) the fixed penalty payable under an infringement notice:
 - (i) in respect of a by-law specified in column 1 of Schedule 3 – is the sum specified opposite in column 2 of that Schedule; and
 - (ii) in respect of any other by-law – is \$50;
 - (b) an infringement notice is to be in a form, approved by the council in accordance with clause (4), that includes:
 - (i) the information required by section 245(2) of the Act; and
 - (ii) the statements required by clause (3);
 - (c) an infringement notice may be issued and served by an authorised person;
 - (d) the fixed penalty specified in an infringement notice is to be paid to the council; and
 - (e) the fixed penalty specified in an infringement notice is to be paid not later than 14 days after the date on which the infringement notice is served on the alleged offender.
- (3) An infringement notice is to contain the following statements:
 - (a) a statement to the effect that:
 - (i) the alleged offender may expiate the offence and avoid enforcement action under the *Fines and Penalties (Recovery) Act 2001* if he or she pays the fixed penalty to the council within 14 days of service of the infringement notice; and
 - (ii) if the alleged offender pays the fixed penalty within the period specified in the infringement notice, the council will take no further action in relation to the offence;

- (b) a statement to the effect that if the alleged offender does not pay the fixed penalty within the period specified in the infringement notice and does not serve on the council a statement of election to have the matter dealt with by a court (as contained in the infringement notice), unless the infringement notice is withdrawn:
 - (i) the *Fines and Penalties (Recovery) Act 2001* will apply and the alleged offender may be served with a courtesy letter in accordance with that Act requiring payment of the fixed penalty together with the costs in respect of the issue of that letter; and
 - (ii) if the alleged offender does not make the payment as required by a courtesy letter, enforcement action may be taken against him or her under the *Fines and Penalties (Recovery) Act 2001* which, after due process, may result in the suspension of the alleged offender's licence to drive, the seizure of property, the deduction of wages or salary, the registration of a statutory charge on land, a community work order or imprisonment if a community work order is breached;
 - (c) a statement to the effect that the alleged offender may elect under section 21 of the *Fines and Penalties (Recovery) Act 2001* to have the matter dealt with by a court instead of under the *Fines and Penalties (Recovery) Act* by completing a statement of election (as contained in the infringement notice) and serving it on the council;
 - (d) a statement of election, for completion by the alleged offender if he or she elects to have the matter dealt with by a court, that includes the information required by regulation 7(1) of the *Fines and Penalties (Recovery) Regulations 2001*.
- (4) For the purposes of clause (2)(b), the form of an infringement notice is to be approved by the council at a meeting at which not less than two-thirds of the members then in office are present, by resolution carried by a majority of the members then in office.

17A Withdrawal of infringement notice

- (1) An infringement notice served on an alleged offender may be withdrawn at any time before a courtesy letter is served on that person under the *Fines and Penalties (Recovery) Act 2001*, but only if the council has not received payment of the fixed penalty specified in the infringement notice.

- (2) The withdrawal of an infringement notice is effected when an authorised officer serves on the alleged offender a notice of withdrawal stating:
- (a) that the infringement notice is withdrawn; and
 - (b) that the fixed penalty specified in the infringement notice is no longer payable to the council.

Part 2 Animals generally

18 Diseased and injured animals and animals at large

- (1) The council may, by notice in writing, require the owner of:
- (a) a diseased, injured, savage or destructive animal (whether it is on private land or in a public place); or
 - (b) an animal at large in a public place that, if left at large, is likely to be a danger to the safety of the public,

to immediately remove or otherwise dispose of the animal and may, if it is reasonable to do so, require the destruction of the animal.

- (2) Notwithstanding clause (1), an authorised person may:
- (a) seize an animal:
 - (i) that the authorised person believes on reasonable grounds to be dangerous, diseased, injured, savage, destructive, stray or unregistered; or
 - (ii) that is at large; or
 - (b) where, in the opinion of an authorised person it is necessary to do so:
 - (i) destroy an animal that the authorised person believes on reasonable grounds to be dangerous, diseased, injured, savage, destructive, unclaimed, unregistered or unwanted; or
 - (ii) apply to the Local Court for an order relating to the destruction of the animal.

19 Removal etc. of dead, diseased or injured animals

- (1) The council may cause the carcass of a dead animal that is found in a public place to be removed or disposed of.

- (2) The council may, without notice to the owner of a dead, diseased or injured animal that is likely to be a danger to the safety of the public, cause the carcass or the animal to be removed or destroyed and disposed of.
- (3) Where the council incurs expense in removing, destroying or disposing of an animal or a dead animal, the council may recover the expense from the owner of the animal as a debt due and payable to the council.

20 Occupier is taken to be owner

For the purposes of this Part, in the absence of evidence to the contrary, the occupier of land where an animal or a dead animal is found is to be taken to be the owner of the animal.

Part 3 Control of dogs

Division 1 Preliminary

21 Interpretation

Unless the contrary intention appears, a reference in this Part to the owner of a dog (other than to the registered owner) includes:

- (a) the person for the time being in control of the dog;
- (b) the occupier of premises or a part of premises where the dog is usually kept; and
- (c) where the owner has not attained the age of 17 years, a parent or guardian of the owner,

but does not include a person controlling or keeping a dog under Division 7 or 8.

22 Exemptions

By-laws 30, 31 and 32 do not apply to or in relation to:

- (a) a guide dog; or
- (b) any other dog determined by the council to be exempt from those by-laws.

Division 2 Registration of dogs

23 Special considerations in determination of application for registration

- (1) The council must, not later than 14 days after receiving an application for the registration of a dog:
 - (a) register or renew the registration of the dog, either conditionally or unconditionally; or
 - (b) refuse to register or renew the registration of the dog and refund to the applicant the fee accompanying the application.
- (2) The council may refuse to register or renew the registration of a dog if:
 - (a) within the period of 2 years before the date of the application the owner of the dog has been convicted of more than 2 offences against these By-laws or the repealed By-laws;
 - (b) within the period of 2 years before the date of the application the dog has been impounded under this Part or the repealed By-laws on more than 2 occasions;
 - (c) the council is satisfied that the dog is destructive, dangerous, savage or consistently the cause of nuisance to members of the public;
 - (d) the premises on which the dog is usually kept is not fenced in the manner determined by the council; or
 - (e) within the period of 2 years before the date of the application the council received 2 or more complaints relating to:
 - (i) the state of (including odour emanating from) the premises where the dog is usually kept caused by or as a result of keeping the dog; or
 - (ii) the unauthorised presence of the dog on land or premises other than the land or premises where the dog is usually kept.
- (3) The council must refuse to register or renew the registration of a dog if:
 - (a) in keeping the dog on the premises on which the dog is usually kept, the applicant would be in breach of by-law 31; or

- (b) the dog, other than a dog referred to in by-law 32(4), is usually kept on premises within a dog restriction area.
- (4) If the council refuses to register or renew the registration of a dog, or imposes conditions on the registration or renewal of the registration of a dog, the council must serve on the applicant a statement in writing of the reasons for its decision.
- (5) For the purposes of clause (2)(a), a conviction for an offence includes the payment of a sum in pursuance of an infringement notice issued under these By-laws.

24 Identification device

- (1) If the council registers or renews the registration of a dog under by-law 23, it must, unless the dog is fitted with a permanent electronic subcutaneous implant issued by the council, issue an identification device to the person who made the application for fitting to the dog.
- (2) If the council issues a dog-tag to the owner of a dog, the owner, unless exempted by the registrar, must ensure that:
 - (a) the tag is fixed to a collar on the dog; and
 - (b) the tag remains displayed on a collar on the dog,while the registration of the dog remains in force.
- (3) If the council issues to the owner of a dog a permanent electronic subcutaneous implant, the owner must cause the dog to be implanted with the device by a veterinarian not later than 14 days after the date of registration of the dog.

Division 3 Licensing of premises

25 Licensing premises

- (1) The council must, not later than 28 days after receiving an application for the licensing of premises for the keeping of dogs:
 - (a) grant a licence or renew the licence in respect of the premises, either conditionally or unconditionally; or
 - (b) refuse to grant a licence or renew the licence in respect of the premises and refund to the applicant the fee accompanying the application.

- (2) In considering an application under clause (1), the council may take into account any matter that is in its opinion relevant, including:
 - (a) the facilities for controlling dogs at the premises specified in the application;
 - (b) the number of dogs kept or to be kept at the premises; and
 - (c) the likely impact on the residents in the locality where the premises are situated if the licence is granted or renewed.
- (3) If the council determines the manner in which premises are to be fenced, the council must not grant or renew a licence for premises if the premises are not fenced in accordance with the determination.
- (4) If an application is for the renewal of a licence and to the council's knowledge:
 - (a) no matters have arisen that, if taken into account at the time the licence was granted, would have caused the council to refuse to grant the licence or to grant the licence subject to conditions other than those specified in the licence; or
 - (b) the council has not, since the grant of the licence, made a determination referred to in by-law 31 that affects the premises,the council may renew the licence without considering the application in the manner specified in clauses (2) and (3).
- (5) If the council refuses to grant or renew a licence, grants a licence subject to conditions or renews a licence subject to conditions not imposed on the original licence, the council must serve on the applicant a statement in writing of the reasons for its decision.

Division 4 Cancellation, variation etc. of registration and licences

26 Cancellation, variation etc. of registration or licence by request

The council may, on the written application of the registered owner of a dog or the holder of a licence, by notice in writing served on the registered owner or holder:

- (a) cancel the registration of the dog or the licence;
- (b) vary the conditions to which the registration of the dog or the licence is subject; or
- (c) in the case of a licence – suspend the licence for the period,

as requested in the application.

27 Cancellation, variation etc. of registration or licence otherwise than by request

- (1) The council may, by notice served on the registered owner of a dog or the holder of a licence, require the registered owner or holder to show cause why the council should not:
 - (a) cancel the registration of the dog or the licence;
 - (b) vary, in the manner specified in the notice, the conditions to which the registration or the licence is subject; or
 - (c) in the case of a licence – suspend the licence for the period specified in the notice.
- (2) The council may, not less than 14 days after the date of service of a notice under clause (1), by another notice in writing served on the registered owner or the holder of the licence on whom the notice was served under clause (1):
 - (a) cancel the registration of the dog or cancel the licence;
 - (b) vary, in the manner specified in the notice, the conditions to which the registration of the dog or the licence is subject; or
 - (c) suspend the licence for the period specified in the notice (which is not to be longer than the period specified in the notice served under clause (1)).

28 Operation of notice of cancellation

A notice served by the council under by-law 26 or 27(2) takes effect on the expiry of 14 days after the service of the notice.

Division 5 Dog exercise areas and dog restriction areas

29 Dog exercise areas and dog restriction areas

- (1) The council may, by resolution, declare an area within the municipality to be a dog exercise area and may specify the times when a dog may be exercised in the area and the other conditions, if any, to apply to the exercising of a dog in the area.
- (2) The council may, by resolution, declare an area within the municipality to be a dog restriction area and may prohibit the keeping in the area of:
 - (a) all dogs;

- (b) more than a specified number of dogs; or
 - (c) all or more than a specified number of dogs of a specified breed.
- (3) The council must publish notice of its intention to declare an area to be a dog exercise area or dog restriction area in a newspaper circulating in the municipality not less than 21 days before making the declaration.

Division 6 Offences

30 Unregistered dogs

- (1) A person commits an offence if the person keeps a dog that is not registered within the municipality.
- (2) The occupier of premises commits an offence if an unregistered dog is kept on the premises.
- (3) An offence against clause (1) or (2) is a regulatory offence.
- (4) It is a defence to a prosecution for an offence against clause (1) or (2) if the person charged with the offence proves that the dog had not been usually kept in the municipality for a period of 3 months or more immediately before the date of the alleged offence.
- (5) Clause (1) does not apply to:
 - (a) a pound supervisor keeping a dog in a pound;
 - (b) an incorporated body keeping a dog in a refuge maintained by it if the body is formed and carried on for purposes that include the promotion and provision of services relating to animal welfare and has been approved by the council;
 - (c) a veterinarian keeping a dog for the purposes of treatment; or
 - (d) a dog under the age of 3 months.
- (6) The burden of proof as to whether a dog is under the age of 3 months lies on the person averring the age of the dog.

31 Requirement for licence

The occupier of premises that is not licensed who keeps on the premises more than the number of dogs or the number of dogs of a class of dog determined by the council to be the number of dogs or dogs of a class of dog that may be kept on unlicensed premises commits an offence.

32 Keeping of dogs in dog restriction area

- (1) A person who keeps a dog in a dog restriction area where keeping the dog is prohibited commits an offence.
- (2) If a dog is present in a dog restriction area and the presence of the dog is prohibited, the owner of the dog commits an offence.
- (3) An offence against clause (1) or (2) is a regulatory offence.
- (4) It is a defence to a prosecution for an offence under this by-law if the person charged with the offence proves that the dog at the date of the making of the resolution declaring the dog restriction area:
 - (a) was owned by the person;
 - (b) was usually kept at premises in the dog restriction area; and
 - (c) if required by this Part to be registered, was registered.

33 Removal of identification device

- (1) A person, other than the owner of a dog, who without reasonable cause removes an identification device from a registered dog commits an offence.
- (2) The owner of a registered dog commits an offence if the dog is at large without an identification device.
- (3) It is a defence to a prosecution for an offence against clause (2) if the owner of the dog proves that the identification device was removed:
 - (a) without the owner's permission and the owner had not had sufficient opportunity to replace the identification device; or
 - (b) for a reasonable cause and the cause was still existent at the date of the alleged offence.
- (4) A person who fits an identification device on a dog that is not the dog for which the device was issued commits an offence.

34 Dogs at large

- (1) The owner of a dog commits an offence if the dog, when at large, is not under effective control.
- (2) An offence against clause (1) is a regulatory offence.
- (3) It is a defence to a prosecution for an offence against clause (1) if the person charged with the offence proves:
 - (a) that the dog, when at large, was properly in a dog exercise area; and
 - (b) that the person was not in breach of a condition applying to the exercising of the dog in the dog exercise area.

35 Female dogs in oestrus

- (1) Subject to clause (2), the owner of a female dog in oestrus that is in a public place commits an offence.
- (2) This by-law does not apply to or in relation to a female dog that is:
 - (a) under effective control; and
 - (b) being taken to:
 - (i) a veterinarian for treatment;
 - (ii) a kennel for boarding;
 - (iii) a stud dog for breeding purposes;
 - (iv) a conformation show; or
 - (v) any other event or place approved by the registrar.

36 Enticement

A person who entices or induces a dog to act in a manner that would render the owner of the dog liable to prosecution for an offence against this Part commits an offence.

37 Dogs attacking or menacing persons or animals

- (1) The owner of a dog that:
 - (a) attacks a person or animal; or
 - (b) menaces a person or animal,

commits an offence.

- (2) It is a defence to a prosecution for an offence against clause (1) if the owner of the dog proves that:
 - (a) a person had, without the owner's permission, enticed the dog to attack or menace the person or animal;
 - (b) the animal attacked or menaced was attacked or menaced on premises owned or occupied by the owner; or
 - (c) the person attacked or menaced was attacked or menaced on premises owned or occupied by the owner and the person:
 - (i) was on the premises for an illegal purpose; or
 - (ii) was attacked or menaced other than when proceeding by the shortest practical route from a boundary of the premises to the door of the premises closest to the boundary or from the door to the boundary.

38 Dogs chasing vehicles

- (1) The owner of a dog that chases a vehicle commits an offence.
- (2) An offence against clause (1) is a regulatory offence.

39 Dogs causing nuisance

- (1) The owner of a dog that, either by itself or in concert with other dogs, is a nuisance commits an offence.
- (2) For the purposes of this by-law, a dog is a nuisance if it is injurious or dangerous to the health of the community or an individual, or behaves repeatedly in a manner contrary to the general interest of the community or an individual.
- (3) Without limiting clause (2), a dog is a nuisance if it:
 - (a) creates a noise, by barking or otherwise, that persistently occurs or continues to a degree or extent that has a disturbing effect on the state of reasonable mental, physical or social well-being of a person;
 - (b) repeatedly barks when people or vehicles use a public place in the vicinity of the premises where the dog is kept; or
 - (c) defecates in a place or places causing annoyance to a particular person.

- (4) The owner of a dog does not commit an offence against this by-law by reason of the actions of the dog referred to in clause (3)(c) if the owner immediately removes the faeces and disposes of them in a public garbage receptacle or on his or her own property.

40 Abandoning dogs

A person who abandons a dog in the municipality commits an offence.

41 Obstruction of pound supervisor etc.

- (1) A person who obstructs or hinders a pound supervisor in the execution of his or her duties commits an offence.
- (2) A person who:
- (a) removes or attempts to remove a dog from the custody of an authorised person; or
 - (b) except in pursuance of Division 8, removes or attempts to remove a dog from a pound,
- commits an offence.

42 Sterilisation marks and certificates

- (1) The council may approve:
- (a) a certificate of sterilisation to be issued to the owner of a sterilised dog; and
 - (b) a mark to be used to identify a dog that has been sterilised.
- (2) If the council approves a certificate of sterilisation under clause (1)(a), a veterinarian must, on sterilising a dog, issue such a certificate to the owner of the dog.
- (3) If the council approves a mark under clause (1)(b), a person must not mark a dog that has not been sterilised with the approved mark.
- (4) A person selling or disposing of a dog to another person must not:
- (a) if the dog has been sterilised – fail to supply to the other person the proof that the dog has been sterilised; and
 - (b) if the dog has not been sterilised – state or hold out that the dog is sterilised.

- (5) A person who contravenes or fails to comply with clause (2), (3) or (4) commits an offence.

Penalty: \$200.

Division 7 Enforcement

43 Seizure of dogs

An authorised person who seizes a dog is as soon as practicable to:

- (a) deliver the dog to a pound; or
- (b) return the dog to its owner:
 - (i) at the time of issuing an infringement notice to the owner; or
 - (ii) in the case of a dog referred to in by-law 36, without issuing an infringement notice .

Division 8 Pounds

44 Establishment of pounds etc.

- (1) The council may:
 - (a) establish a pound; or
 - (b) make such arrangements as it thinks fit for the use of premises for impounding dogs under this Part.
- (2) The council may appoint the persons it thinks fit to be pound supervisors of a pound.

45 Notice of impounding

- (1) If a registered dog with an identification device is delivered to a pound, a pound supervisor must notify the registrar who must serve on the registered owner a notice, in the approved form, of the impounding of the dog.
- (2) If a dog with a collar on which the address of its owner is displayed is delivered to a pound, a pound supervisor must notify the registrar who may serve at the address a notice, in the approved form, of the impounding of the dog.
- (3) Except as required by clause (1) or (2), the registrar is not obliged to notify the owner of a dog of the impounding of the dog.

46 Release of dogs from pounds

- (1) An impounded dog is not to be released from the pound:
 - (a) unless it is registered;
 - (b) other than to the owner of the dog or to a person authorised to act as the owner's agent; and
 - (c) unless there is paid to the council the appropriate maintenance and release fees.
- (2) Clause (1)(a) does not apply to a dog that had not, immediately preceding the date of its release from the pound, been usually kept in the municipality for a period of 3 months or more or is under 3 months of age.
- (3) The burden of proof as to whether:
 - (a) a person is the owner of a dog or a person authorised to act as the owner's agent lies on the person;
 - (b) a dog has been usually kept in the municipality for less than 3 months lies on the person averring that fact; or
 - (c) the dog is under 3 months of age lies on the person averring the age of the dog.

47 Diseased dogs

- (1) Where a pound supervisor who takes custody of a dog that has been seized under these By-laws:
 - (a) receives advice from a veterinarian that the dog is, or is suspected of being, diseased; or
 - (b) notices or suspects that the dog is diseased,the pound supervisor must:
 - (c) isolate the dog from other dogs in the pound; and
 - (d) notify the council of the dog's condition.
- (2) The council must serve on the owner, if known, of a dog isolated under clause (1) written notice that the dog is or is suspected of being diseased and that the council:
 - (a) requires the dog to be destroyed; or

- (b) requires the dog to undergo a course of treatment specified in the notice.
- (3) In a notice served under clause (2), the council may require the owner of the dog to produce to the council, within the time specified in the notice, a report, prepared by a veterinarian or a person specified in the notice, relating to:
 - (a) if the dog is not required to be destroyed – the disease of the dog; or
 - (b) all other dogs usually kept at the premises where the dog is or was kept.
- (4) A dog the subject of a notice under this by-law may be released from the pound in accordance with by-law 46 subject to the conditions the council thinks fit.
- (5) A pound supervisor may destroy a dog in a pound if the dog is so diseased or injured that it is humane to destroy it.
- (6) The cost of treatment reasonably provided by a pound supervisor to a diseased dog, and to any other dog in the pound that was infected or was at risk of being infected by the diseased dog before the supervisor could reasonably isolate it, is a debt due and payable by the owner of the diseased dog to the council.
- (7) The owner of a dog who contravenes or fails to comply with a requirement of a notice under clause (2) or a condition subject to which a dog is released under clause (4) commits an offence.

48 Sale or disposal of impounded dogs

- (1) A pound supervisor may arrange for the destruction of a dog delivered to a pound at the expiration of the number of days or hours determined by the council.
- (2) A dog in a pound is not to be destroyed other than:
 - (a) by a veterinarian or a person who is, in the opinion of a pound supervisor, qualified to destroy the dog; and
 - (b) in a manner that is approved by the Australian Veterinary Association.
- (3) Subject to this Part, a pound supervisor may, instead of destroying a dog under clause (1):
 - (a) sell or dispose of the dog; or

- (b) pass the property in the dog to an incorporated body that is formed and carried on for purposes that include the promotion of and provision of services relating to animal welfare and that is approved by the council and sell or dispose of the dog as agent for that body.

Division 9 Miscellaneous

49 Change of ownership of dog etc.

- (1) A person who acquires ownership of a registered dog must, not later than 14 days after acquiring ownership, notify the registrar of:
 - (a) the person's name and address;
 - (b) the name of the registered owner; and
 - (c) the registration number of the dog.
- (2) The registered owner of a dog who changes his or her address must, not later than 14 days after the change, notify the registrar of the new address.
- (3) The registrar must, on being notified of a change of ownership under clause (1) or of an address under clause (2), amend the register accordingly.
- (4) A person who fails to comply with clause (1) or (2) commits an offence.

Penalty: \$200.

50 Dog races etc.

- (1) The council may, by notice in writing, exempt a person or body from by-law 33 or 34, or both, for the purposes of a dog race, dog trial, dog show or while taking part in the activities of a dog obedience club or while using a dog to drive cattle or stock on a road or for such other purpose or event as the council may determine.
- (2) An exemption under clause (1) may relate to a particular event or to a class of events and may be subject to the conditions the council thinks fit.

Part 4 Repeal, savings and transitional**51 Repeal**

The *Palmerston (Animal Control) By-laws* (Regulations, No. 16 of 1992) and the *Palmerston (Stray Animals) By-laws* (Regulations, No. 25 of 1983) are repealed.

52 Savings and transitional

- (1) If the registration of a dog granted under by-law 7 of the repealed By-laws was in force immediately before the commencement of these By-laws, the registration continues in force as if it were the registration of the dog granted under these By-laws until the time that it would have expired under the repealed By-laws.
- (2) If a licence in respect of premises granted under by-law 10 of the repealed By-laws was in force immediately before the commencement of these By-laws, the licence continues in force as if it were a licence granted under these By-laws until the time that it would have expired under the repealed By-laws.
- (3) A registration referred to in clause (1) and a licence referred to in clause (2) may be varied or cancelled under these By-laws.
- (4) This by-law does not limit the operation of section 12 of the *Interpretation Act 1978* in its application to and in respect of the repealed By-laws or the *Palmerston (Stray Animals) By-laws*.

Schedule 1 Determinations

by-law 5(4)

Column 1

Column 2

Determinations

Matters to be taken into account

Registration

(1) By-law 5(3)(c)

Application fee for:

(a) registration

Fee may vary in respect of matters including:

(a) the date of the application;

(b) whether or not the owner presents a sterilisation certificate in relation to the dog.

(c) whether or not the applicant is a pensioner.

(b) renewal of registration

Fee may vary in respect of matters including:

(a) whether or not the owner presents, or has on making the application for the initial registration presented, a sterilisation certificate in relation to the dog;

(b) the date of the application; or

(c) whether or not the applicant is a pensioner.

(2) By-law 23(2)(d)

Manner in which premises on which the dog is usually kept are to be fenced

Manner may vary by reference to the size or breed or both the size and breed of the dog to be registered

Licences

(1) By-law 5(3)(b)

Application fee for:

- | | |
|----------------------------|---|
| (a) a licence | Fee may vary in respect of matters including:
<ul style="list-style-type: none">(a) the date of the application; or(b) whether or not the applicant is a pensioner. |
| (b) a renewal of a licence | Fee may vary in respect of matters including:
<ul style="list-style-type: none">(a) the date of the application; or(b) whether or not the applicant is a pensioner. |

(2) By-law 25(3)

Manner in which premises are to fenced

Manner may vary by reference to the size or breed or both the size and breed of the dogs to be kept on the premises

(3) By-law 31

Number of:

- (a) dogs; or
- (b) dogs of a class of dog

that may be kept on premises without the licensing of the premises.

Determinations may be made under both paragraphs (a) and (b) and different determinations may be made in respect of different areas within the municipality.

Dog Restriction Areas

By-law 29(2)

Prohibiting the keeping of:

- (a) all dogs;
- (b) more than a specified number of dogs; or
- (c) all dogs or more than a specified number of dogs of a specified breed,

within a specified area of the municipality.

Maintenance and Release Fees

By-law 46(1)

Daily fee to be paid in relation to the maintenance of a dog in a pound.

Daily fee to be paid in relation to the maintenance of a dog in a pound.

Fee to be paid on the release of a dog from a pound.

Destruction of Impounded Dogs

By-law 48(1)

Number of days or hours on the expiry of which the pound supervisor may arrange for the destruction of a dog.

Other Determinations

The conditions not otherwise specifically dealt with in these By-laws on which the council will grant licences or registrations

Schedule 3 Fixed penalties

By-law 17(2)(a)

Column 1 By-law	Column 2 Amount
	\$
32	100
33(1)	100
33(2)	100
34	100
35	100
36	100
37(1)(a)	250
37(1)(b)	100
38	100
39	100
40	100
41	100

ENDNOTES

1 KEY

Key to abbreviations

amd = amended app = appendix bl = by-law ch = Chapter cl = clause div = Division exp = expires/expired f = forms Gaz = Gazette hdg = heading ins = inserted lt = long title nc = not commenced	od = order om = omitted pt = Part r = regulation/rule rem = remainder renum = renumbered rep = repealed s = section sch = Schedule sdiv = Subdivision SL = Subordinate Legislation sub = substituted
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2 LIST OF LEGISLATION

Palmerston (Animal Management) By-laws (SL No. 25, 1999)

Notified	14 July 1999
Commenced	14 July 1999

Amendments of Palmerston (Animal Management) By-laws (SL No. 19, 2000)

Notified	12 April 2000
Commenced	12 April 2000

Amendments of Palmerston (Animal Management) By-laws (SL No. 51, 2002)

Notified	25 November 2002
Commenced	25 November 2002

Local Government (Consequential Amendments) Act 2008 (Act No. 28, 2008)

Assent date	14 November 2008
Commenced	1 July 2008 (s 2)

3 GENERAL AMENDMENTS

General amendments of a formal nature (which are not referred to in the table of amendments to this reprint) are made by the *Interpretation Legislation Amendment Act 2018* (Act No. 22 of 2018) to: bl 1, 4, 17, 17A and 52.

4 LIST OF AMENDMENTS

bl 1	amd No. 19, 2000, bl 2
bl 7	amd No. 51, 2002, bl 4
bl 17	sub No. 51, 2002, bl 1 amd Act No. 28, 2008, s 4
bl 17A	ins No. 51, 2002, bl 1
bl 23	amd No. 51, 2002, bl 4
bl 43	amd No. 51, 2002, bl 4

ENDNOTES

sch 2 sub No. 19, 2000, bl 3
 rep No. 51, 2002, bl 2
sch 3 amd No. 51, 2002, bl 3