

# NORTHERN TERRITORY OF AUSTRALIA

## CITY OF PALMERSTON (ANIMAL MANAGEMENT) BY-LAWS 2023

---

Subordinate Legislation No. [ ] of 2023

---

### Table of provisions

#### **Part 1 Preliminary matters**

1	Title.....	2
2	Commencement .....	2
3	Definitions.....	2
4	Meaning of <i>owner</i> .....	4
5	Application within Palmerston.....	4
6	Application of Criminal Code .....	4

#### **Part 2 Animal management**

##### **Division 1 Responsible ownership of dogs and cats**

7	Registration required .....	4
8	Offence of unregistered dog or cat .....	5
9	Identification devices .....	5
10	Offences related to identification devices .....	6
11	Offence for contravention of condition of registration .....	6
12	Notice of change in address or owner .....	7
13	Proper containment of dogs and cats .....	7
14	Keeping dogs and cats under effective control .....	8
15	Abandoning dog or cat .....	9
16	Maximum number of dogs and cats.....	9
17	Dog exercise areas.....	10
18	Dog and cat restricted areas.....	11
19	Offences related to dog or cat areas .....	11

##### **Division 2 Menacing, attacking and dangerous dogs**

20	Dog menaces .....	12
21	Dog attacks.....	12
22	Serious dog attack.....	13
23	Defences .....	13
24	Enticement or incitement .....	14
25	Dangerous dog .....	14
26	Revocation of declaration of dangerous dog .....	15
27	Duties of owner of dangerous dog .....	15

28	Notice about loss or transfer of dangerous dog .....	16
29	Offences related to dangerous dog .....	17
30	Remedial action for dangerous dog .....	17

### **Division 3            Seizure and impounding of dogs and cats**

31	Seizure and impounding .....	18
32	Notice of impounding .....	18
33	Release from pound .....	19
34	Destruction of dog or cat.....	20
35	Destruction or disposal of impounded dogs and cats .....	20
36	Humane method .....	21
37	Costs of destruction .....	21

### **Division 4            Management of domestic livestock and other animals**

38	Domestic livestock.....	21
39	Management of poultry .....	21
40	Animal causing nuisance .....	22
41	Removal or disposal of animal remains .....	23

## **Part 3                    Administrative matters**

### **Division 1            Authorisations**

42	Issuing authorisations .....	23
43	Application for authorisation .....	24
44	Revoking or varying on request.....	24
45	Revoking, suspending or varying for cause .....	24

### **Division 2            Information and records**

46	Records .....	25
47	Written notices .....	26
48	Publishing information .....	26

### **Division 3            Fees**

49	Determining fees .....	26
50	Other matters related to fees .....	26

## **Part 4                    Infringement notice offences**

51	Infringement notice offence and prescribed amount payable .....	27
52	When infringement notice may be given.....	27
53	Contents of infringement notice .....	27
54	Electronic payment and payment by cheque .....	28
55	Expiation of offence .....	28

---

56	Withdrawal of infringement notice.....	28
57	Application of Part .....	28

## **Part 5                    Repeal and transitional matters**

### **Division 1            Repeals**

58	Repeal of By-laws.....	29
----	------------------------	----

### **Division 2            Transitional matters for City of Palmerston (Animal Management) By-laws 2023**

59	Definitions.....	29
60	Former determinations .....	29
61	Licences and registrations under former By-laws .....	29
62	Dog exercise areas and dog restriction areas .....	30
63	Offence provisions.....	30

### **Schedule 1           Repealed By-laws**

### **Schedule 2           Infringement notice**



# NORTHERN TERRITORY OF AUSTRALIA

Subordinate Legislation No. [ ] of 2023\*

## ***City of Palmerston (Animal Management) By-laws 2023***

City of Palmerston, at a meeting held on [ ] 2023, made the following by-laws under the *Local Government Act 2019* and, for section 63A(1)(a)(ii) of the *Interpretation Act 1978*, authorised [ ], [the Chief Executive Officer], to sign them.

Dated 2023

Chief Executive Officer

The common seal of City of Palmerston is affixed under a resolution authorising the seal to be affixed passed on [ ] 2023.

Mayor

Chief Executive Officer

**CONSULTATION DRAFT ONLY**

**PREPARED FOR THE CITY OF PALMERSTON**

\* Notified in the *Northern Territory Government Gazette* on [ ] 2023.

## Part 1 Preliminary matters

### 1 Title

These By-laws may be cited as the *City of Palmerston (Animal Management) By-laws 2023*.

### 2 Commencement

These By-laws commence on [date].

### 3 Definitions

In these By-laws:

**approved** means approved by the City by resolution.

**assistance animal**, see section 4A of the *Anti-Discrimination Act 1992*.

**at large**, in relation to a dog or cat, means the dog or cat is:

- (a) outside the premises where it is usually kept; and
- (b) not under effective control.

**attack**, in relation to a dog, means any behaviour of the dog specified in by-law 21(1) or 22(1).

**authorisation** means a form of written or electronic authority issued by the CEO that is required under these By-laws to do something, to have something or to engage in other conduct.

*Examples for definition authorisation*

- 1 A licence to keep animals at premises.
- 2 A dog or cat registration.

**City** means the local government council constituted for the municipality of Palmerston.

*Note for definition City*

*The Minister for Local Government changed the name of the council for the City of Palmerston local government area to the "City of Palmerston" by notice in Gazette G50 of 12 December 2012.*

**dangerous dog** means a dog declared to be dangerous under by-law 25.

**dog exercise area** means an area declared by the City under by-law 17 to be a dog exercise area.

**domestic livestock** means any of the following that is kept for a non-commercial purpose:

- (a) a horse or other equine animal;
- (b) an ox, buffalo or other bovine animal;
- (c) a camel;
- (d) a goat;
- (e) a pig.

**effective control**, in relation to a dog or cat, see by-law 14(2) and (3).

**infringement notice**, for Part 4, see by-law 52.

**infringement notice offence**, for Part 4, see by-law 51(1).

**menace**, see by-law 20(2).

**nuisance**, see by-law 40(2).

**owner**, see by-law 4.

**Palmerston** means the City of Palmerston local government area.

**pound** means a place established by the City to impound animals.

**premises** include the following:

- (a) a building or other structure;
- (b) a part of a building or other structure;
- (c) land where a building or other structure is situated.

**prescribed amount**, for Part 3, see by-law 51(2).

**properly contained**, see by-law 13.

**vehicle** means any conveyance that runs on wheels.

*Examples for definition vehicle*

*Cars, trucks, trailers, motorcycles, bicycles, scooters, skateboards and inline skates.*

*Note for by-law 3*

*The Act also defines terms that are used in these By-laws.*

#### **4            Meaning of owner**

- (1) In relation to an animal, **owner** means any of the following:
- (a) for a registered dog or cat – the person who is registered as the owner of the dog or cat;
  - (b) the person for the time being in control or possession of the animal;
  - (c) the occupier of the premises, or a part of the premises, where the animal is kept.

*Examples for definition owner*

A person walking a dog or looking after a dog for a friend who is on holidays.

- (2) If an owner under clause (1) is a person under 18 years of age, the owner is taken to be any parent or guardian of that person.

#### **5            Application within Palmerston**

These By-laws apply to and have effect within Palmerston.

*Note for by-law 5*

*Under section 275(4) of the Act, a by-law binds the Territory and all its instrumentalities.*

#### **6            Application of Criminal Code**

Part IIAA of the Criminal Code applies to an offence against these By-laws.

*Note for by-law 6*

*Part IIAA of the Criminal Code states the general principles of criminal responsibility, establishes general defences, and deals with burden of proof. It also defines, or elaborates on, certain concepts commonly used in the creation of offences.*

## **Part 2            Animal management**

### **Division 1       Responsible ownership of dogs and cats**

#### **7            Registration required**

- (1) The owner of a dog or cat that is kept in Palmerston must register it with the City.
- (2) The City must, by resolution, determine the following:
- (a) the process for registering dogs and cats;



- (b) any grounds for refusing to register a dog or cat;
- (c) any conditions of registration;
- (d) date of expiry of a registration.

*Examples for clause (2)(b)*

*Unsuitable premises or excessive number of dogs or cats.*

*Note for by-law 7*

*Part 3, Division 1 contains provisions about the grant of authorisations, including registrations, under these By-laws.*

## **8            Offence of unregistered dog or cat**

- (1) A person commits an offence if the person keeps an unregistered dog or cat in Palmerston for a period of 3 months or longer.

Maximum penalty:        20 penalty units.

*Note for clause (1)*

*The infringement amount is 1 penalty unit.*

- (2) The following persons are exempt from clause (1):
  - (a) a City employee or contractor who keeps a dog or cat in a pound;
  - (b) a person or entity that provides animal protection or welfare services;
  - (c) a veterinarian who keeps a dog or cat for treatment.
- (3) An offence against clause (1) is an offence of strict liability.

## **9            Identification devices**

- (1) A registered dog or cat must:
  - (a) wear an identification tag when outside the premises where the dog or cat is kept; and
  - (b) be implanted with a microchip.
- (2) An identification tag must meet the specifications determined, by resolution, by the City.
- (3) An implanted microchip must:
  - (a) meet the specifications determined, by resolution, by the City; and

- (b) be designed to store information in a way that can be retrieved electronically without physical contact.
- (4) The CEO may exempt a dog or cat from the requirement in clause (1)(b) if the CEO is satisfied that implanting a microchip in the dog or cat will:
  - (a) result in an undue risk to the health of the dog or cat; or
  - (b) adversely affect the growth, development or wellbeing of the dog or cat.
- (5) The owner of a registered dog or cat must ensure that it:
  - (a) wears a tag that meets the requirements determined under clause (2) when outside the premises where it is kept; and
  - (b) is implanted with a microchip.

## **10            Offences related to identification devices**

- (1) The owner of a registered dog or cat must not:
  - (a) allow it to be outside the premises where it is kept without wearing an identification tag that meets the requirements determined under by-law 9(2); or
  - (b) remove from it any microchip implanted under by-law 9.

Maximum penalty:       20 penalty units.

*Note for clause (1)*

*The infringement amount is 1 penalty unit.*

- (2) An offence against clause (1) is an offence of strict liability.

## **11            Offence for contravention of condition of registration**

- (1) The owner of a registered dog or cat must comply with any conditions on the registration determined by the City.
- (2) A person commits an offence if:
  - (a) the person is the owner of a registered dog or cat; and
  - (b) the registration of the dog or cat is subject to a condition; and

- (c) the owner fails to comply with the condition.

Maximum penalty:       20 penalty units.

*Note for clause (2)*

*The infringement amount is 1 penalty unit.*

- (3) An offence against clause (2) is an offence of strict liability.

## **12       Notice of change in address or owner**

- (1) The owner of a registered dog or cat must notify the City of the following events:

- (a) a change in the owner's address;
- (b) a transfer of the dog or cat to a new owner.

- (2) The notice must be given in the approved form within 14 days after the day the event occurred and include the following:

- (a) the particulars of the animal;
- (b) the contact details of the owner;
- (c) in the case of a transfer of the dog or cat to a new owner – the contact details of both the new and former owners.

- (3) A person commits an offence if:

- (a) the person is the owner of a registered dog or cat; and
- (b) the person fails to comply with clause (1) or (2).

Maximum penalty:       10 penalty units.

*Note for clause (3)*

*The infringement amount is 1 penalty unit.*

- (4) An offence against clause (3) is an offence of strict liability.

## **13       Proper containment of dogs and cats**

- (1) The owner of a dog or cat must properly contain the dog or cat when it is on the premises where it is usually kept.
- (2) For these By-laws, a dog or cat is taken to be **properly contained** on premises if the dog or cat is kept inside a building, enclosed run or other structure on the premises from which the animal is unable to escape.

*Note for clause (2)*

*Under section 22 of the Animal Protection Act 2018, a person in control of an animal must provide a minimum level of care to the animal.*

- (3) A person commits an offence if:
- (a) the person is the owner of a dog or cat; and
  - (b) the dog or cat is not properly contained when it is on the premises where it is kept.

Maximum penalty:        20 penalty units.

*Note for clause (3)*

*The infringement amount is 2 penalty units.*

- (4) An offence against clause (3) is an offence of strict liability.
- (5) To avoid doubt, the following matters are not relevant to an offence against clause (3):
- (a) the time during which the dog or cat was not properly contained;
  - (b) the ability of the owner to properly contain the dog or cat.

## **14        Keeping dogs and cats under effective control**

- (1) The owner of a dog or cat must ensure that the dog or cat is under effective control when outside the premises where the animal is kept.
- (2) For these By-laws, a dog or cat is taken to be under **effective control** if the dog or cat is:
- (a) restrained by a leash or similar device that is suitable to restrain the dog or cat and is held by a person who is over the age of 12 years and competent to restrain the dog or cat; or
  - (b) safely enclosed in a vehicle, or 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 or cat is projecting from the vehicle; or
  - (c) otherwise leashed or restrained and unable to run free.
- (3) For these By-laws, a dog in a dog exercise area is also taken to be under **effective control** if:
- (a) the dog is complying with the conditions specified for the area; and

- (b) the dog is immediately responsive to a voice command of its owner; and
  - (c) the dog is not a female dog in oestrus; and
  - (d) the owner is carrying a leash or similar device in accordance with clause (2)(a).
- (4) A person commits an offence if:
- (a) the person is the owner of a dog or cat; and
  - (b) the dog or cat is not under effective control when outside the premises where the animal is kept.

Maximum penalty:       20 penalty units.

*Note for clause (4)*

*The infringement amount is 1 penalty unit.*

- (5) An offence against clause (4) is an offence of strict liability.

## **15            Abandoning dog or cat**

A person commits an offence if the person intentionally abandons a dog or cat in Palmerston.

Maximum penalty:       20 penalty units.

## **16            Maximum number of dogs and cats**

- (1) The City may, by resolution, establish a limit or condition on the maximum number of dogs or cats that may be kept on premises in Palmerston.

*Examples for clause (1)*

*The maximum number of dogs and cats allowed on premises or limits or conditions on the breeding of dogs and cats and the suitability of those premises and the impact on neighbours.*

- (2) The City must publish the limit or condition.
- (3) A person must not, without an authorisation, keep dogs or cats on premises contrary to any limit or condition established by the City on the maximum number of dogs or cats that may be kept on premises in Palmerston.

- (4) An occupier of premises commits an offence if:
- (a) the City, by resolution, establishes a limit or condition on the maximum number of dogs or cats that may be kept on the premises; and
  - (b) the occupier keeps dogs or cats on the premises contrary to the limit or condition; and
  - (b) the occupier does not have an authorisation allowing that conduct.

Maximum penalty:       20 penalty units.

*Note for clause (4)*

*The infringement amount is 1 penalty unit.*

- (5) An offence against clause (4) is an offence of strict liability.
- (6) A person who contravenes clause (3) is not entitled to apply for, or to be granted, a licence referred to in that clause for a period of 12 months from the day of the last contravention.

## **17       Dog exercise areas**

- (1) The City may, by resolution, declare an area to be a dog exercise area.
- (2) If the City intends to declare an area to be a dog exercise area, the City must:
- (a) publish notice of the proposed area at least 28 days in advance; and
  - (b) consider any responses to the notice from residents of Palmerston.
- (3) The City must publish the location and conditions for using any dog exercise area or class of dog exercise area it declares.

*Examples for clause (3)*

*1    The times to exercise dogs in the area.*

*2    When female dogs in oestrus are allowed in the area.*

- (4) The owner of a dog using a dog exercise area must comply with the conditions for the area.
- (5) The owner of a dangerous dog must ensure the dog does not enter a dog exercise area.

- (6) A person commits an offence if:
- (a) the person is the owner of a dog; and
  - (b) the dog is a dangerous dog; and
  - (c) the dog enters a dog exercise area.

Maximum penalty:       20 penalty units.

*Note for clause (6)*

*The infringement amount is 1 penalty unit.*

- (7) An offence against clause (6) is an offence of strict liability.

## **18            Dog and cat restricted areas**

- (1) The City may declare an area to be a dog or cat restricted area.
- (2) If the City intends to declare an area to be a dog or cat restricted area, the City must:
  - (a) publish notice of the proposed area at least 28 days in advance; and
  - (b) consider any responses to the notice from residents of Palmerston.
- (3) The City must publish the location and restrictions on dogs and cats in any dog or cat restricted area it declares.
- (4) An assistance animal is exempt from this by-law.
- (5) The owner of a dog or cat must comply with the conditions for the dog or cat restricted area.
- (6) The City may, by resolution, exempt a person, a class of persons or all persons from one or more conditions or restrictions in a declaration made under clause (1) for a maximum period of 14 days.
- (7) The City must publish an exemption under clause (6).

## **19            Offences related to dog or cat areas**

- (1) A person commits an offence if the person:
  - (a) owns a dog or cat; and
  - (b) fails to comply with the conditions for a dog exercise area or a dog or cat restricted area; and

- (c) if the condition relates to a dog or cat restricted area – does not have an exemption from the condition under clause 18(6).

Maximum penalty:        20 penalty units.

*Note for clause (1)*

*The infringement amount is 1 penalty unit.*

- (2) An offence against clause (1) is an offence of strict liability.

## **Division 2            Menacing, attacking and dangerous dogs**

### **20            Dog menaces**

- (1) An owner of a dog must ensure that it does not menace a person or another animal.
- (2) For these By-laws, a dog is taken to **menace** a person or other animal if it chases, harasses, rushes at or threatens to bite the person or animal in a manner that causes a reasonable apprehension of fear in the person or animal.
- (3) The owner of a dog commits an offence if the owner fails to comply with clause (1).

Maximum penalty:        20 penalty units.

*Note for clause (3)*

*The infringement amount is 3 penalty units.*

- (4) An offence against clause (3) is an offence of strict liability.

### **21            Dog attacks**

- (1) The owner of a dog must ensure that it does not rush at, bite, chase or menace a person or other animal resulting in:
  - (a) physical contact with the person or other animal; or
  - (b) damage to:
    - (i) anything worn by the person or animal; or
    - (ii) other property in the immediate possession or under the immediate control of the person.



- (2) The owner of a dog commits an offence if the owner fails to comply with clause (1).

Maximum penalty:        60 penalty units.

*Note for clause (2)*

*The infringement amount is 5 penalty units.*

- (3) An offence against clause (2) is an offence of strict liability.

## **22            Serious dog attack**

- (1) The owner of a dog must ensure that it does not:

- (a) bite a person or another animal causing a puncture or break to the skin; or
- (b) assault a person or another animal resulting in bleeding, bone breakage, sprains, scratches or bruising.

- (2) The owner of a dog commits an offence if the owner fails to comply with clause (1).

Maximum penalty:        80 penalty units or, for an aggravated offence, 100 penalty units.

*Note for clause (2)*

*The infringement amount is 7 penalty units or, for an aggravated offence, 9 penalty units.*

- (3) An offence against clause (2) is an offence of strict liability.

- (4) An offence against clause (2) is an aggravated offence if the bite or assault causes or results in substantial injury to, or death of, the person or the other animal.

## **23            Defences**

- (1) It is a defence to a prosecution for an offence against by-law 20, 21 or 22 if:

- (a) another person had, without the defendant's permission, caused the dog to menace or attack the person or another animal; or
- (b) in the case of another animal being menaced or attacked – the other animal was on premises owned or occupied by the defendant without consent; or

- (c) in the case of a person being menaced or attacked – the person was unlawfully on premises owned or occupied by the defendant.

*Note for clause (1)*

*The defendant has an evidential burden in relation to this defence (see section 43BU of the Criminal Code).*

- (2) If a court finds a person guilty of an offence against by-law 20, 21 or 22, the court may make one or both of the following orders in addition to, or instead of, the penalty for the offence:
  - (a) if the dog is impounded as a result of the offence – an order that the person pay the costs and expenses of, and incidental to, the impounding;
  - (b) an order that the dog be destroyed.

## **24            Enticement or incitement**

A person commits an offence if:

- (a) the person intentionally engages in conduct; and
- (b) the conduct results in the owner of a dog being liable to prosecution for an offence against by-law 20, 21 or 22; and
- (c) the person is reckless in relation to that result.

Maximum penalty:        20 penalty units.

*Note for by-law 24*

*The infringement amount is 1 penalty unit.*

## **25            Dangerous dog**

- (1) An authorised person may, by written notice, declare a dog to be a dangerous dog if:
  - (a) the dog menaces or attacks a person or an animal; or
  - (b) the authorised person believes on reasonable grounds that the dog is destructive, dangerous, savage or a threat to the safety of the community.
- (2) The authorised person must give written notice of the declaration to the owner of the dog.

- (3) The written notice of the declaration must be in the approved form and include the following information:
  - (a) the day the declaration takes effect;
  - (b) the reasons for the declaration;
  - (c) the identity of the dog and the owner of the dog.
- (4) The City must keep a record of the information in clause (3).

## **26            Revocation of declaration of dangerous dog**

- (1) The owner of a dangerous dog may, in writing to the CEO, request that the declaration of the dog as a dangerous dog be revoked.
- (2) The CEO may:
  - (a) revoke the declaration; or
  - (b) refuse to revoke the declaration.
- (3) The CEO must give the applicant written notice of the decision under clause (2).
- (4) A revocation under clause (2)(a) takes effect on the day the CEO notifies the applicant of the revocation.
- (5) If the CEO refuses an application under clause (2)(b), the CEO is not required to consider a further application made under clause (1) in relation to the same dog within six months of the refusal.

## **27            Duties of owner of dangerous dog**

- (1) This by-law applies to the owner of a dog that is declared to be a dangerous dog.
- (2) The owner must, within 14 days after the day the declaration takes effect:
  - (a) desex the dangerous dog, unless it is already desexed, at the owner's expense; and
  - (b) provide to an authorised person evidence from a veterinarian that the dog is desexed; and
  - (c) undergo behavioural or other training with the dog, as specified by the CEO, at the owner's expense.

- (3) The owner must ensure that the containment required under by-law 13(1) is appropriate to the danger posed by the dangerous dog.

*Example for clause (3)*

*Installing higher and stronger fencing for a large dangerous dog.*

- (4) The owner must post signage on the premises where the dangerous dog is kept, with the words "Warning Dangerous Dog" clearly visible and legible from the front boundary of the premises.
- (5) When the dangerous dog is outside the premises where it is kept, the owner must ensure that:
- (a) the dog is kept under the effective control of a person who is at least 18 years of age and competent to restrain the dog; and
  - (b) the dog is muzzled and controlled by a leash that is suitable to restrain the dog; and
  - (c) the dog does not enter a dog exercise area.
- (6) If the owner intends to keep the dangerous dog for more than 14 days at a place other than the premises where it is usually kept, the owner must notify the City of the address of the place within 24 hours after the dog is relocated.
- (7) The owner must notify the City of any attack, or alleged attack, by the dangerous dog of a person or animal within 24 hours of the earlier of the following:
- (a) the time of the attack or alleged attack;
  - (b) the time the owner becomes aware of the attack or alleged attack.

## **28            Notice about loss or transfer of dangerous dog**

- (1) The owner of a dangerous dog must notify the City if the dog is missing or dies.
- (2) The notice must be given:
- (a) within 24 hours after the owner becomes aware the dog is missing; or
  - (b) within 14 days after the day of its death.

- (3) If the owner of a dangerous dog intends to transfer ownership of the dangerous dog, the owner must inform the prospective owner that the dog is dangerous.
- (4) In the case of the transfer of a dangerous dog, the notice to the City under by-law 12 must be given within 24 hours after the transfer.

## **29            Offences related to dangerous dog**

- (1) A person commits an offence if the person:
  - (a) is the owner of a dog that is declared to be a dangerous dog; and
  - (b) fails to comply with by-law 27 or 28.

Maximum penalty:        100 penalty units.

*Note for clause (1)*

*The infringement amount is 9 penalty units.*

- (2) An offence against clause (1) is an offence of strict liability.

## **30            Remedial action for dangerous dog**

- (1) If the owner of a dangerous dog fails to comply with the duties of an owner under by-law 27 more than once in a 12-month period, the CEO may require the owner to take either or both of the following actions:
  - (a) undergo further specified behavioural or other training with the dog at the owner's expense;
  - (b) surrender the dog to the pound.
- (2) If the CEO intends to take action under clause (1), the CEO must give the owner of the dangerous dog a notice that:
  - (a) states what action the CEO is proposing under that clause; and
  - (b) states the grounds for taking that action; and
  - (c) invites the owner to show cause, within 14 days, why the action should not be taken.
- (3) After considering any response received within 14 days after the day of the notice, the CEO must decide whether to take action under clause (1).

- (4) As soon as practicable after making a decision under clause (3), the CEO must give a decision notice to the owner of the dangerous dog.

### **Division 3            Seizure and impounding of dogs and cats**

#### **31            Seizure and impounding**

- (1) An authorised person may seize:
- (a) a dog or cat that appears to be diseased, injured, savage, destructive, stray or unregistered; or
  - (b) a dog or cat that is at large; or
  - (c) a dangerous dog whose owner is not complying with Division 2; or
  - (d) a dog that an authorised person believes on reasonable grounds has attacked a person.
- (2) As soon as practicable after seizing a dog or cat, the authorised person must:
- (a) impound the dog or cat in a pound; or
  - (b) take reasonable steps to return the dog or cat to its owner if satisfied that it is not diseased, injured, savage or destructive.

#### **32            Notice of impounding**

- (1) The CEO must ensure that reasonable steps are taken to notify the owner of a dog or cat that it is impounded and whether:
- (a) the owner must collect it; or
  - (b) the owner must await a decision regarding destruction or disposal under by-laws 34 and 35; or
  - (c) the dog or cat is subject to destruction or disposal under by-laws 34 and 35.
- (2) The owner of an impounded dog or cat who receives notice under clause (1)(a) must collect the dog or cat within the time specified in the notice.
- (3) A person commits an offence if the person:
- (a) owns a dog or cat; and

- (b) receives a notice under clause (1)(a) that the owner must collect it; and
- (c) fails to collect the dog or cat within the time specified in the notice.

Maximum penalty:        20 penalty units.

*Note for clause (3)*

*The infringement amount is 2 penalty units.*

- (4) An offence against subsection (3) is an offence of strict liability.

### **33            Release from pound**

- (1) When collecting a dog or cat from a pound, a person must provide evidence that the person is the owner of the dog or cat or is authorised to act on behalf of the owner.
- (2) The City may charge the owner a fee for:
  - (a) the costs incurred by the City in relation to the impounded dog or cat; and
  - (b) delivering the dog or cat from the pound.
- (3) Subject to by-laws 34 and 35, an impounded dog or cat must not be released from a pound unless:
  - (a) it is registered and implanted with a microchip in accordance with by-law 9; and
  - (b) it is released to its owner or to a person authorised to act on behalf of the owner; and
  - (c) the City receives any fees payable in relation to it.

*Note for clause (3)*

*Under by-law 9(4), the CEO may exempt a dog or cat from the requirement to be implanted with a microchip.*

- (4) Clause (3)(a) does not apply in relation to an impounded dog or cat if:
  - (a) the dog or cat is usually kept outside the City; or
  - (b) the dog or cat is under 3 months of age.
- (5) For clause (4)(b), the owner of the dog or cat must provide evidence that the dog or cat is under 3 months of age.

**34                      Destruction of dog or cat**

- (1) The CEO may arrange for a dog or cat to be destroyed if:
  - (a) the dog or cat is in the pound or is abandoned or is found on a public place; and
  - (b) the dog or cat is diseased, injured, savage, destructive, unclaimed, unregistered or unwanted; and
  - (c) it is humane to destroy the dog or cat in the circumstances.
- (2) The CEO may presume that a dog that attacks a person or animal is savage or destructive.

**35                      Destruction or disposal of impounded dogs and cats**

- (1) Subject to this by-law, the CEO may, after a dog or cat is impounded for 4 business days:
  - (a) transfer the dog or cat to an entity that provides animal rehoming services; or
  - (b) arrange for its destruction.
- (2) The CEO may make arrangements for the transfer of dogs and cats from a pound to a person or entity that provides animal rehoming services.

*Example for clause (2)*

*Arrangements could be made with the RSPCA and other organisations that provide care for unwanted and stray animals.*

- (3) The CEO must not destroy or dispose of an impounded dog or cat because it is savage, destructive, unclaimed, unregistered or unwanted until after the later of the following:
  - (a) if circumstances related to the destruction are being investigated – the end of that investigation;
  - (b) if the destruction is subject to legal proceedings – 14 days after the end of those legal proceedings.
- (4) If an offence is being investigated in relation to an impounded dog or cat, it must not be destroyed or disposed of until the investigation is complete.

*Example for clause (4)*

*If a dog is alleged to have attacked a person, the dog would not be destroyed unless the investigation is complete.*



**36            Humane method**

Any destruction of a dog or cat under these By-laws must be done:

- (a) in a manner approved by the Australian Veterinary Association; and
- (b) by a veterinarian or another person who is, in the opinion of the CEO, qualified to destroy it.

**37            Costs of destruction**

The costs incurred by the City to destroy a dog or cat under by-law 34 or 35 is a debt payable by the owner of the dog or cat to the City.

**Division 4            Management of domestic livestock and other animals**

**38            Domestic livestock**

- (1) Domestic livestock must not be kept in Palmerston on a lot that has less than 1 hectare of available land.
- (2) A person may keep on a lot a maximum of one domestic livestock animal per 1 hectare of available land.
- (3) A person commits an offence if the person keeps domestic livestock contrary to clause (1) or (2).

Maximum penalty:        20 penalty units.

*Note for clause (3)*

*The infringement amount is 1 penalty units.*

- (4) An offence against clause (3) is an offence of strict liability.
- (5) In this section:

**available land** means land on which there is no building or structure, other than a building or structure used for the keeping, training or exercising of domestic livestock.

**39            Management of poultry**

- (1) The City may, by resolution, establish a limit or condition on the maximum number of poultry that may be kept on premises in Palmerston.
- (2) The City must publish the limit or condition.

- (3) A person must not, without an authorisation, keep poultry on premises contrary to any limit or condition established by the City on the maximum number of poultry that may be kept on premises in Palmerston.
- (4) An occupier of premises commits an offence if:
  - (a) the City, by resolution, establishes a limit or condition on the maximum number of poultry that may be kept on the premises; and
  - (b) the occupier keeps poultry on the premises contrary to the limit or condition; and
  - (b) the occupier does not have an authorisation allowing that conduct.

Maximum penalty:        20 penalty units.

*Note for clause (4)*

*The infringement amount is 1 penalty unit.*

- (5) An offence against clause (4) is an offence of strict liability.
- (6) A person who contravenes clause (3) is not entitled to apply for, or to be granted, a licence referred to in that clause for a period of 12 months from the day of the last contravention.

#### **40            Animal causing nuisance**

- (1) The owner of a dog, cat, domestic livestock or poultry must ensure that the animal is not a nuisance to people or other animals.
- (2) For clause (1), an animal is taken to be a **nuisance** if it:
  - (a) is injurious or dangerous to the health of the community or another person; or
  - (b) behaves repeatedly in a manner contrary to the general interest of the community or specific interests of another person; or
  - (c) creates a noise or an odour to a degree or extent that disturbs the reasonable mental, physical or social well-being of a person other than its owner; or

- (d) defecates to a degree or extent that causes annoyance to a person other than its owner.

*Examples for clause (2)(c)*

- 1 *Constant or loud barking, caterwauling, crowing or squawking, especially when pedestrians walk past the premises.*
- 2 *Noxious smelling coops or cages used for keeping poultry.*

- (3) The owner of an animal that defecates in public must immediately remove the faeces and dispose of them in a sanitary manner.
- (4) The owner of an animal must ensure it does not aggressively chase a vehicle.
- (5) The owner of an animal must not allow the animal to come within 10 m of a public play structure or public exercise structure unless the animal is under effective control.
- (6) A person commits an offence if the person fails to comply with clause (1), (3), (4) or (5).

Maximum penalty:        20 penalty units.

*Note for clause (6)*

*The infringement amount is 3 penalty units.*

- (7) An offence against clause (6) is an offence of strict liability.

#### **41            Removal or disposal of animal remains**

- (1) The City may arrange for the remains of a dead animal that is found on a public place to be removed or disposed of.
- (2) If the City incurs expense in removing or disposing of a dead animal, the City may recover the expense from the owner of the animal as a debt due and payable to the City.

### **Part 3            Administrative matters**

#### **Division 1        Authorisations**

#### **42            Issuing authorisations**

- (1) The CEO may issue, or refuse to issue, an authorisation.
- (2) An authorisation remains in force for:
  - (a) the period of time, if any, specified in the authorisation; or

- (b) if no period is specified in the authorisation – the period of 12 months on and after the day of its issue.

- (3) An authorisation is subject to the conditions specified by the CEO.

*Example for clause (3)*

*The fence around a property must be of a particular height.*

- (4) An authorisation is not transferable, unless these By-laws expressly provide otherwise.

#### **43            Application for authorisation**

- (1) Applications for the issue of authorisations must be made to the CEO.
- (2) The application must be in the approved form and accompanied by:
  - (a) the applicable fee, if any; and
  - (b) any documents, specifications or particulars that the CEO may require.

#### **44            Revoking or varying on request**

- (1) The CEO may, on the written request of the holder of an authorisation:
  - (a) revoke the authorisation; or
  - (b) vary the conditions of the authorisation.

- (2) The CEO must give the holder written notice of the revocation or variation.

#### **45            Revoking, suspending or varying for cause**

- (1) The CEO may, in accordance with this by-law, revoke, suspend or vary the conditions of an authorisation if the holder of the authorisation:
  - (a) obtained the authorisation improperly; or
  - (b) failed to comply with these By-laws or a condition of the authorisation.
- (2) Before making a decision under clause (1), the CEO must give the holder written notice:
  - (a) stating that the CEO proposes to revoke, suspend or vary the authorisation; and

- (b) stating the grounds for the intended revocation, suspension or variation; and
  - (c) inviting the holder to show cause, in accordance with clause (3), why the revocation, suspension or variation should not be made.
- (3) Within 7 days of receiving the notice, the holder of the authorisation may make written representations to the CEO on why the revocation, suspension or variation should not be made.
- (4) After considering any representations made by the holder in accordance with clause (3), the CEO may:
  - (a) take no further action in relation to the authorisation; or
  - (b) revoke, suspend or vary the authorisation.
- (5) As soon as practicable after making a decision under clause (4), the CEO must give written notice of the decision to the holder of the authorisation.
- (6) If the CEO decides to revoke, suspend or vary the conditions of an authorisation, the notice to the holder must include the following information:
  - (a) the date that the revocation, suspension or variation takes effect;
  - (b) in the case of a suspension:
    - (i) the steps that the holder must take before the suspension will be lifted and the consequences for not completing those steps; and
    - (ii) the period of time that the suspension will remain in force;
  - (c) in the case of a variation – how the conditions are being varied.

## **Division 2      Information and records**

### **46      Records**

- (1) The CEO must keep records of the following:
  - (a) all dogs and cats registered under these By-laws;
  - (b) all other authorisations issued under these By-laws;

- (c) any other matter required by these By-laws or by the City.
- (2) The records may be kept in any form, including electronic form.

*Note for by-law 46*

*The City has obligations as a public sector organisation under the Information Act 2002.*

#### **47            Written notices**

A written notice required under these By-laws may be in electronic form.

*Example for by-law 47*

*An email sent to the registered owner of a dog or cat.*

#### **48            Publishing information**

Any notice, document or other information that must be published under these By-laws must be published in a timely manner on the City's website.

*Note for by-law 48*

*The Act provides for the publication of certain determinations, notices and minutes of meetings of the City and the protection of confidential information. Under section 7 of the Act, publishing includes publishing or broadcasting by radio, television, internet, telephone or other means.*

### **Division 3            Fees**

#### **49            Determining fees**

- (1) The City must, by resolution, determine the fees payable under these By-laws.
- (2) To avoid doubt, the amount of a fee may vary according to circumstances and conditions relevant to the fee.

*Examples for clause (2)*

*1   Lower registration fee for a sterilised dog or cat.*

*2   Higher registration fee for a dangerous dog.*

#### **50            Other matters related to fees**

- (1) Notice of the determination of a fee must be published as soon as practicable.
- (2) The City must not demand or receive any fee determined under by-law 49 unless notice of the fee was published.

- (3) Any fee that is not paid when it is due may be recovered as a debt due to the City.

## **Part 4                      Infringement notice offences**

### **51                      Infringement notice offence and prescribed amount payable**

- (1) An ***infringement notice offence*** is an offence against a provision specified in Schedule 2.
- (2) The ***prescribed amount*** for an infringement notice offence is the amount equal to the monetary value of the number of penalty units specified for the offence in Schedule 2.

### **52                      When infringement notice may be given**

If an authorised person believes on reasonable grounds that a person has committed an infringement notice offence, the authorised person may give a notice (an ***infringement notice***) to the person.

### **53                      Contents of infringement notice**

- (1) The infringement notice must specify the following:
- (a) the name and address of the person to whom it is issued, if known;
  - (b) the date the infringement notice is given to the person;
  - (c) the date and time of the infringement notice offence and the place at which the infringement notice offence occurred;
  - (d) a description of the offence;
  - (e) the prescribed amount payable for the offence;
  - (f) the enforcement agency to which the prescribed amount is payable.
- (2) The infringement notice must include a statement to the effect of the following:
- (a) the person may expiate the infringement notice offence and avoid any further action in relation to the offence by paying the prescribed amount to the specified enforcement agency within 28 days after the notice is given;

- (b) the person may elect to have the offence dealt with by a court by:
    - (i) completing a statement of election and giving it to the specified enforcement agency; and
    - (ii) not paying the prescribed amount;
  - (c) if the *Fines and Penalties (Recovery) Act 2001* applies to the infringement notice offence – enforcement action may be taken under that Act if the person does nothing in response to the notice.
- (3) The infringement notice must include an appropriate form for making the statement of election mentioned in clause (2)(b)(i).

#### **54 Electronic payment and payment by cheque**

- (1) If the person uses electronic means to pay the prescribed amount, payment is not effected until the amount is credited to the payee's bank account.
- (2) If the person tenders a cheque in payment of the prescribed amount, payment is not effected unless the cheque is cleared on first presentation.

#### **55 Expiation of offence**

If the prescribed amount for the infringement notice offence is paid in accordance with the infringement notice, the alleged offence is expiated and no further proceedings can be taken in relation to the offence.

#### **56 Withdrawal of infringement notice**

- (1) The CEO may withdraw the infringement notice by written notice given to the person.
- (2) The notice must be given:
  - (a) within 14 days after the infringement notice is given to the person; and
  - (b) before payment of the prescribed amount.

#### **57 Application of Part**

- (1) This Part does not prejudice or affect the start or continuation of proceedings for an infringement notice offence for which an infringement notice has been given unless the offence is expiated.



- (2) This Part does not:
- (a) require an infringement notice to be given; or
  - (b) affect the liability of a person to be prosecuted in a court for an offence for which an infringement notice has not been given; or
  - (c) prevent more than one infringement notice for the same offence being given to a person.
- (3) If more than one infringement notice for the same offence has been given to a person, the person may expiate the offence by paying the prescribed amount in accordance with any of the notices.

## **Part 5                      Repeal and transitional matters**

### **Division 1                Repeals**

#### **58                      Repeal of By-laws**

The By-laws specified in Schedule 1 are repealed.

### **Division 2                Transitional matters for City of Palmerston (Animal Management) By-laws 2023**

#### **59                      Definitions**

In this Division:

***commencement*** means the commencement of by-law 58.

***former By-laws*** means the *Palmerston (Animal Management) By-laws 1999*.

#### **60                      Former determinations**

A charge, due or fee determined under the former By-laws and in force immediately before the commencement continues on the commencement as if it were determined under these By-laws.

#### **61                      Licences and registrations under former By-laws**

A licence or registration issued, granted or renewed under the former By-laws that is in force immediately before the commencement continues as if the licence or registration were issued, granted or renewed under these By-laws.

**62 Dog exercise areas and dog restriction areas**

- (1) A dog exercise area declared under the former By-laws and in force immediately before the commencement continues on the commencement as if it were declared under by-law 17 of these By-laws.
- (2) A dog restriction area declared under the former By-laws and in force immediately before the commencement continues on the commencement as if were declared under by-law 18 of these By-laws.

**63 Offence provisions**

- (1) The offence provisions in the former By-laws, as in force immediately before the commencement, continue to apply in relation to offences committed before the commencement.
- (2) For this by-law, if any element of an offence occurred before the commencement, the offence is taken to have been committed before the commencement.
- (3) In this by-law:

***offence provision*** means a provision that creates or relates to offences, including in relation to criminal responsibility, defences and penalties.

---

## Schedule 1 Repealed By-laws

by-law 58

---

<i>Palmerston (Animal Management) By-laws</i>	SL No. 25, 1999
<i>Amendments of Palmerston (Animal Management) By-laws</i>	SL No. 19, 2000
<i>Amendments of Palmerston (Animal Management) By-laws</i>	SL No. 51, 2002

---

## Schedule 2     Infringement notice

by-law 51

Provision	Infringement amount (penalty units)
by-law 8(1)	1
by-law 10(1)	1
by-law 11(2)	1
by-law 12(3)	1
by-law 13(3)	2
by-law 14(4)	1
by-law 16(4)	1
by-law 17(6)	1
by-law 19(1)	1
by-law 20(3)	3
by-law 21(2)	5
by-law 22(2)	7
	for aggravated offence – 9
by-law 24	1
by-law 29(1)	9
by-law 32(3)	2
by-law 38(3)	1
by-law 39(4)	1
by-law 40(6)	2