Proposed Dog Control Bylaw 2021

As at 17/11/2020 (Resolution by #####)

1 Title

(1) This bylaw is the Dog Control Bylaw 2021

2 Commencement

(1) This bylaw comes into force on 1 July 2021

3 Application

(1) This bylaw applies to the Whanganui District.

Part 1
Preliminary provisions

4 Purpose

(1) The purpose of this Bylaw is to give effect to the **Dog Control Policy** by:

(a) regulating dogs to prevent nuisance;

(b) prohibiting dogs, whether under control or not, from specified **Public Places**;

(c) requiring dogs to be controlled on-leash in any specified **Public Place**;

(d) regulating and controlling dogs in any other **Public Place**;

(e) ensuring the number of dogs kept on a premise are suitable; and

(f) requiring the owner of any dog that defecates in a **Public Place** or on land or premises other than that occupied by the owner to immediately remove the faeces.

5 Interpretation

In this bylaw, unless the context otherwise requires, -

Act means the Dog Control Act 1996.

Approval means a licence, permit or other form of written approval granted under this bylaw, and includes all conditions to which the approval is subject.

Bylaw means the Dog Control Bylaw 2021.

Council means the Whanganui District Council or any Authorised Officer.

Control in relation to a dog, that the owner is able to obtain an immediate and desired response from the dog by use of a leash, voice commands, hand signals, whistles or other effective means so as to prevent a dog being a nuisance.

Dangerous Dog means a dog which has been classified as a dangerous dog under section 31 of the Dog Control Act 1996.

District Plan means the Operative Whanganui District Plan or a Proposed Whanganui District Plan or part, which is deemed to be operative for the purposed of the Resource Management Act 1991.

Owner has the meaning given by section 2 the Dog Control Act 1996.

Person includes a corporation sole, a body corporate, and an unincorporated body.

Premises means all land and buildings within a single rating unit.

Private Way has the meaning given by section 315 of the Local Government Act 1974.

Dog Control Policy means the Dog Control Policy 2021.

Public place has the meaning given by section 2 the Dog Control Act 1996.

"public place—

(a) means a place that, at any material time, is open to or is being used by the public, whether free or on payment of a charge, and whether any owner or occupier of the place is lawfully entitled to exclude or eject any person from that place; and

(b) includes any aircraft, hovercraft, ship or ferry or other vessel, train, or vehicle carrying or available to carry passengers for reward"

Road has the meaning given by section 315 of the Local Government Act 1974

Urban Area means any area of the District zoned, residential, commercial or manufacturing in the Whanganui District Plan.

Working Dog has the meaning given by section 2 of the Dog Control Act 1996.

Note: *Working dogs include disability assist dogs, dogs kept by state departments such as police dogs and customs dogs, pest control dogs and dogs kept solely or principally as stock or herding dogs. A full list can be found in section 2 of the Dog Control Act 1996.*

Vehicle has the meaning given by s 2(1) of the Land Transport Act 1998

"*vehicle—*

(a) means a contrivance equipped with wheels, tracks, or revolving runners on which it moves or is moved; and

(b) includes a hovercraft, a skateboard, in-line skates, and roller skates; but

(c) does not include—

(i) *a perambulator or pushchair:*
(ii) *a shopping or sporting trundler not propelled by mechanical power:*
(iii) *a wheelbarrow or hand-trolley:*
(iv) *[Repealed]*
(v) *a pedestrian-controlled lawnmower:*
(vi) *a pedestrian-controlled agricultural machine not propelled by mechanical power:*
(vii) *an article of furniture:*
(viii) *a wheelchair not propelled by mechanical power:*
(ix) *any other contrivance specified by the rules not to be a vehicle for the purposes of this definition:*
(x) *any rail vehicle"*

(1) Any undefined words, phrases or expressions used in this **Bylaw** have the same meaning as in the Act unless the context plainly requires a different meaning.

(2) Explanatory notes and additional information attached at the end of this **Bylaw** are for information purposes only, do not form part of this **Bylaw**, and may be made, amended, revoked or replaced by the Council at any time.

(3) The Interpretation Act 1999 applies to this **Bylaw** as if it were an enactment.

Part 2
Regulation and control of dogs

6 Nuisance

(1) The owner of every dog shall ensure that the dog does not create a nuisance including, without limitation, by:

(a) obstructing the lawful passage of any **Person** in a **Public Place** or on private property.

(b) rushing at, chasing, frightening, intimidating or causing any **Person** in a **Public Place** or lawfully on private property to suffer injury or distress.

(c) destroying, tearing or otherwise interfering with any refuse container, whether the container is on private property or in a **Public Place**.

(d) interfering with any **Person's** property, whether on private property (other than the owners) or in a **Public Place**.

(e) rushing at, chasing, frightening, obstructing or causing injury or distress to any stock, poultry, domestic animal or protected wildlife, whether on private property (other than the owners) or in a **Public Place**.

(f) barking, howling and/or whining in a persistent and loud manner.

(g) rushing at any **Vehicle**.

7 Prohibition of dogs in public places

(1) The owner of any dog must ensure that their dog (including when confined in a **Vehicle** or cage) does not enter or remain in any **Public Place** specified as prohibited in Schedule 1 or 2 of the **Dog Control Policy**.

(2) Clause 7(1) does not apply in the following cases:

(a) any **Working Dog** accompanying and assisting a **Person** or accompanying a **Person** engaged in the dog's training; or

(b) where the only pedestrian access to either the owners residence or a veterinary surgery is through a prohibited **Public Place** provided that:

(i) the owner takes the most direct route through the prohibited **Public Place**; and

(ii) the dog is under **Control** on a leash.

8 Dogs on a leash in public places and private ways

(1) The owner of any dog must ensure that the dog is under **Control** on a leash in any **Public Place** and **Private Way** specified as such in Schedule 2 of the **Dog Control Policy**.

(2) Clause 8(1) does not apply to–

(a) any dog confined in a **Vehicle** or cage; or

(b) any **Working Dog** accompanying and assisting a **Person** or accompanying a **Person** engaged in the dog's training.

9 Dogs off a leash in public places

(1) The owner of any dog (other than a **Dangerous Dog**) may take that dog off a leash in **Public Place** specified as such in Schedule 2 of the **Dog Control Policy**, provided that dog is kept under **Control**.

10 Dogs in designated dog exercise area

(1) The owner of any dog (including a **Dangerous Dog** that is muzzled) may take that dog off leash in a designated dog exercise area specified as such in Schedule 2 of the **Dog Control Policy** provided that dog is kept under **Control**.

(2) In any other **Public Place** not specified as designated dog exercise areas in Schedule 2, dogs classified as Dangerous Dogs must be muzzled at all times.

11 Temporary changes to dog access rules

(1) The Council may make temporary changes to Schedule 1 or 2 of the **Dog Control Policy** in relation to–

(a) leisure and cultural events (including dog friendly events);

(b) dog training;

(c) protected wildlife that are vulnerable to dogs;

(d) flora that are vulnerable to dogs;

(e) pest control in any park and/or beach; and

(f) other circumstances of a comparative nature to clause 11(1)(a) to (e) inclusive.

(2) In making or removing a temporary change to Schedule 1 or 2 of the **Dog Control Policy** in clause 11(1), the Council must–

(a) have regard the Dog Access provisions within the **Dog Control Policy**;

(b) specify in writing the reasons, location and timeframe the temporary change is to apply;

(c) give public notice of the temporary change in a manner that the Council considers appropriate in the circumstances; and

(d) clearly indicate the area subject to the temporary change by 1 or more clearly legible notices affixed in 1 or more conspicuous places on, or adjacent to, the place to which the notice relates, unless it is impracticable or unreasonable to do so.

12 Dog faeces

(1) When in a **Public Place** dog owners must ensure the immediate removal and disposal of their dog's faeces. This must be done in a way that does not cause a nuisance.

(2) Clause 12(1) does not apply to any dog herding or driving stock on a **Road** where the dog is kept solely or principally for the purposes of herding or driving stock.

13 Keeping more than three dogs

(1) Except with the **approval** of Council, no **Person** shall allow or cause to remain or keep more than three (3) dogs over the age of 3 months, and not more than one (1) unspayed bitch**,** on any **Premises** within the **Urban Area**.

Part 3

Administration and Enforcement

14 Approvals

(1) The Council may grant, (with or without conditions) or refuse any application for **Approval**, at its discretion.

(2) In deciding to grant or decline an application for four (4) or more dogs on a **Premises** within the **Urban Area**, Council will consider the following matters:

(a) size and nature of the **Premises**;

(b) any justified complaints with regard to the owner or dogs subject to the **Approval**;

(c) whether or not the consent of any potentially affected neighbours has been given;

(d) conditions that may be imposed on an **Approval** if granted;

(e) duration of any **Approval** if granted;

(f) inspection to ensure compliance with any **Approval** and any conditions;

(g) any objection to the council in relation to a decision to suspend or cancel an **Approval**, including the period of objection; and

(h) any other matters Council considers necessary.

(3) Unless otherwise stated in the conditions of the **Approval** granted under clause 14(1), the **Approval** will remain valid as long as the circumstances described on the **Approval** remain unchanged.

(4) An **Approval** granted under clause 14(1) cannot be transferred to another **Person** or another premise.

15 Review of an approval

(1) The Council may cancel, amend or initiate a review of an **Approval** issued under this **Bylaw** if:

(a) change of circumstances relating to the:

(i) **Premises**; or
(ii) Owner or occupier of the **Premises**; or
(iii) Dogs kept or remaining on the **Premises**; or
(iv) Neighbouring approval.

or

(b) if urgent action is required to protect the public from unsafe or hazardous conditions; or

(c) two (2) or more justified complaints, not related to the same instance, are received within a 12 month period; or

(d) a **Person** has failed to meet the conditions of their **Approval** or any other requirements of any relevant criteria, policy or guidelines approved by the Council; or

(e) a **Person** that holds an **Approval** fails to meet any written instructions within the specified timeframes.

(2) A review of an approval, may result in:

(a) Amendment of the approval; or

(b) Suspension of the approval; or

(c) Withdrawal of the approval; or

(d) No further action.

16 Non-compliance with this Bylaw

(1) The Council may use its powers under the **Act** and the Local Government Act 2002 to enforce this **Bylaw**.

(2) A **Person** who fails to comply with any control, restriction, limitation or prohibitions contained within or made pursuant to this **Bylaw** commits an offence under the **Act** and the Local Government Act 2002 and is liable to the penalties under the **Act** or Local Government Act 2002.

17 Savings

(1) Any approval or control in force at the commencement of this **Bylaw** remains in force until revoked or replaced by an equivalent resolution, approval or decision made by the Council under this **Bylaw**.