

## **CENTRAL OTAGO DISTRICT COUNCIL DOG CONTROL BYLAW 2006**

The Central Otago District Council, in pursuance of the powers contained in the Local Government Act 2002, the Bylaws Act 1910, the Dog Control Act 1996 and any other authority enabling it in this behalf hereby makes the following Bylaw.

### **1.0 TITLE AND COMMENCEMENT**

- (a) This Bylaw shall be known as the Dog Control Bylaw 2006.
- (b) The Bylaw shall come into force on the 27<sup>th</sup> day of September 2006.

### **2.0 INTERPRETATION**

Terms used in this Bylaw are those described in the Dog Control Act 1996

**Act** – means the Dog Control Act 1996

**Companion Dog**- means a dog certified by the Top Dog Companion Trust as being a companion dog, or a dog under training as a companion dog.

**Dog Control Officer** – has the same meaning as ‘Dog Control Officer’ as appointed under section 11 of the Act.

**Guide Dog**- means a dog certified by the Royal New Zealand Foundation of the Blind as being a guide dog or a dog under training as a guide dog.

**Hearing Ear Dog**- means a dog certified by the Royal New Zealand Foundation of the Blind as being a hearing ear dog or dog under training as a hearing ear dog

**Owner** – means every person who:

- (a) Owns a dog; or
- (b) Has possession of the dog, whether the dog is at large or in confinement, otherwise than for a period not exceeding 72 hours for the purpose of preventing the dog causing injury, damage, or distress, or for the sole purpose of restoring a lost dog to its owner; or
- (c) Is the parent or guardian of a person under the age of 16 years who;
  - (i) is the owner of the dog pursuant to paragraph (a) or (b) of this definition, and
  - (ii) Is a member of the parent or guardian's household living with and dependent on the parent or guardian;—

But does not include any person who has seized or taken custody of the dog under the Dog Control Act 1996 or the Animal Welfare Act 1999 or the National Parks Act 1980 or the Conservation Act 1987 or any regulation made under any of those Acts.

**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:

(c) A public place does not include a private vehicle.

**Working Dog** – means:

**Working dog** means—

(a) any disability assist dog:]

(b) Any dog—

(i) Kept by the Police or any constable, the Customs Department, the Ministry of Agriculture, the Ministry of Fisheries or the Ministry of Defence, or any officer or employee of any such Department of State solely or principally for the purposes of carrying out the functions, powers, and duties of the Police or the Department of State or that constable, officer, or employee; or

(ii) Kept solely or principally for the purposes of herding or driving stock; or

(iii) Kept by the Department of Conservation or any officer or employee of that Department solely or principally for the purposes of carrying out the functions, duties, and powers of that Department; or

(iv) Kept solely or principally for the purposes of destroying pests or pest agents under any pest management strategy under the Biosecurity Act 1993; or

(iva) kept by the Department of Corrections or any officer or employee of that Department solely or principally for the purposes of carrying out the functions, duties, and powers of that Department; or]

(ivb) kept by the Aviation Security Service established under section 72B(2)(ca) of the Civil Aviation Act 1990, or any officer or employee of

that Service solely or principally for the purposes of carrying out the functions, duties, and powers of that Service; or]

(iv) certified for use by the Director of Civil Defence Emergency Management for the purposes of carrying out the functions, duties, and powers conferred by the Civil Defence Emergency Management Act 2002; or]

(v) Owned by a security guard as defined in section 4 of the Private Investigators and Security Guards Act 1974 and kept solely or principally for the purposes of carrying on the business of a security guard; or

(vi) Declared by resolution of the territorial authority to be a working dog for the purposes of this Act, or any dog of a class so declared by the authority, being a dog owned by any class of persons specified in the resolution and kept solely or principally for the purposes specified in the resolution.

The following terms are not defined in the Act but the following definitions will apply to this policy:

**Control-** means that the owner or the person in possession or charge of the dog (the person)

shall have it on a lead or confined within a vehicle or other container. The person must be physically capable of directing or commanding the dog whilst off the lead where it is permitted to so, pursuant to this Bylaw.

**Controlled Area-** means any area not identified as an exercise area or a prohibited area

**Exercise Area-** means any area set out in the schedule as an exercise area

**Nuisance-** means (inter alia) excessive barking or any activity or behaviour set out in paragraph 6.5 herein

**Prohibited Area-** means any area set out in the schedule as a prohibited area

**Suitable receptacle-** means a plastic bag, a paper bag or any acceptable container

### 3.0 MANDATORY OBLIGATIONS UNDER THE ACT

#### 3.1 Control of Dogs

**a) In Public:**

- (1) The owner and any person for the time being having charge of any dog shall ensure that the dog does not enter or remain in any public place unless the dog is under continuous control. Any person taking a dog out in a public place must ensure that a leash is used or carried at all times.
- (2) The owner and any person for the time being having charge of any **dangerous or menacing** dog shall ensure that the dog does not enter or remain in any public place unless the dog is muzzled and kept on a leash, chain or lead which is in turn secured or held so that the dog cannot break loose.
- (3) The owner of any dangerous or menacing dog shall ensure that any person who has the dog under their control is aware of the requirement in subsection (2)

**b) On Private Property**

- (4) Dog owners must ensure at all times that, when their dog is on their property, it is either under direct control of a person, or is confined in such a manner that it cannot freely leave the property.

**3.2 Registration-Microchipping**

- (1) The following dogs must be microchipped pursuant to s 36A of the Act:
  - (a) All dogs first registered on or after 1 July 2006.
  - (b) All dogs classified as dangerous or menacing dogs.
    - (i) If a dog is classified as dangerous or menacing before 1 July 2006 they must be microchipped within two months from 1 July 2006.
    - (ii) If a dog is classified as dangerous or menacing after 1 July 2006 they must be microchipped within 2 months from the date of classification.
  - (c) All dogs impounded and released by the local authority for the second time.
- (2) Owners will be responsible for ensuring that subsection (1) is complied with.
- (3) A vet or a trained microchip inserter shall carry out any microchipping of a dog.

### **3.3 Unlawful Release of Dog from Pound**

- (1) It is an offence under the Act;
  - (a) to unlawfully release a dog from a pound,
  - (b) to attempt to unlawfully release a dog from a pound, or
  - (c) to be in possession of a dog that has been unlawfully released from a pound.

## **4.0 CLASSIFICATION OF DOGS AND DOG OWNERS**

### **4.1 Classification and restrictions on dogs and dog owners**

- (1) Pursuant to the Act a dog owner may be classified as;
  - (a) a probationary owner; or
  - (b) a disqualified owner
- (2) Pursuant to the Act a dog may be classified as;
  - (a) dangerous;
  - (b) menacing; or
  - (c) both
- (3) Any classification pursuant to the Act will apply to the dog, or dog owner, regardless of their location in New Zealand.

### **4.2 Probationary Dog Owner**

- (1) A dog owner may be classified as a 'probationary' owner if that person;
  - (a) incurs more than 3 infringement offences within 2 years; or
  - (b) is, or has been, convicted of any offence (not including an infringement notice) relating to dog treatment and control under the Act, the Animal Welfare Act 1999, the Conservation Act 1987 or the National Parks Act 1980.
- (2) A 'probationary' classification applies for 24 months from the date of the offence, unless terminated earlier as allowed for in the Act.
- (3) While classified as 'probationary' a dog owner that person;
  - (a) may not become the registered owner of a dog (unless the person was the registered owner of the dog on the date of the offence, or the date of the third infringement offence in respect of which the classification was made);
  - (b) must dispose of any unregistered dog in his/her care in a manner that does not constitute an offence under any Enactment within 14 days;
  - (c) will be charged a 50% surcharge on all dog control fees payable during the classification period. Such fees are calculated on a pro-rata basis for any period outside a full registration year. If the surcharge is not paid within four weeks, the dog shall cease to be registered;
  - (d) may be required to attend a dog education programme

### **4.3 Disqualified Dog Owner**

- (1) Pursuant to the Act the Council may disqualify any probationary dog owner from owning any dog if that owner commits any offence in terms of the Act.
- (2) Disqualification may apply for up to five years after the offence has taken place
- (3) A disqualified owner;
  - (a) may not be in possession of a dog for the period of disqualification; and
  - (b) must dispose of every dog that he or she owns within 14 days of any conviction under the Act.
- (4) Disposal of a dog must be in accordance with the Act and not to any person living at the same address as the disqualified owner.

#### **4.4 Dangerous Dogs**

- (1) The Council may declare any dog dangerous if:
  - (a) the owner has been convicted of an attack offence under section 57(6) of the Act; or;
  - (b) the Council has sworn evidence that the dog has shown aggressive behaviour on one or more occasions; or
  - (c) there are reasonable grounds to believe that the animal has threatened the safety of any person or animal; or
  - (d) the owner admits the dog is a threat to the safety of any person, animal or stock.
- (2) A dog classified as dangerous must be;
  - (a) muzzled when in public; and
  - (b) neutered or spayed within one month of classification; and
  - (c) kept in a fenced area that is separated from the access to any dwelling house.
- (3) Dangerous dogs must not be sold or given away without the Council's approval.
- (4) Any dog classified as dangerous after 1 December 2003 must be micro chipped from 1 July 2006.
- (5) If the owner of a dangerous dog does not meet the requirements of the Act the Council may do any of the following
  - (a) seek an order for destruction;
  - (b) impose fines;
  - (c) pursue a criminal action
- (6) A dog that is declared dangerous by the Council will be subject to a 50% surcharge on normal registration fees.
- (7) Any complaints of dog attacks causing serious injury will be referred to the Police as a criminal matter.

#### **4.5 Menacing and prohibited dogs**

- (1) The Council may classify any dog as 'menacing' if that dog is;

- (a) considered to pose a threat to any person or livestock; and
  - (b) has not been classified as dangerous.
- (2) A dog classified as menacing must;
- (a) be muzzled in a public place; and
  - (b) be implanted with a microchip within two months after 1 July 2006 or within two months after classification.
- (3) The Council may require any dog classified as menacing to be neutered.
- (4) Exceptions to these requirements may be made by permit in special circumstance.

#### **4.6 Specific breeds to be classed as menacing**

- (1) The following breeds of dog are classified as menacing dogs:
- (a) American Pitbull Terrier
  - (b) Dogo Argentino
  - (c) Brazilian Fila
  - (d) Japanese Tosa
- (2) If the Local Authority has reasonable grounds to believe that a dog belongs, or is bred, wholly or predominately from one of the four breeds listed in section 4.6(1) it must classify the dog as menacing under s33 C of the Act.

#### **5.0 MONITORING AND REPORTING REQUIREMENTS**

The Local authority shall report annually on its dog control policies pursuant to s10A of the Act.

#### **6.0 GENERAL OBLIGATIONS PECULIAR TO THE CENTRAL OTAGO DISTRICT**

##### **6.1 Access Provisions**

- (1) Subject to clause 3.2 and 3.3 access to public places by dogs is provided for as follows:

##### **a) Designated Exercise Areas**

- (1) A dog may be exercised without being restrained in any of the designated exercise areas listed in the first schedule.
- (2) The dog must be under continuous control whilst being exercised in the designated exercise areas.
- (3) For the purpose of this clause an owner shall be deemed to have sufficient control if;
  - (a) the dog is under the continuous surveillance or control of some responsible person, and
  - (b) Can be recalled instantly whenever another person, dog, or any other animal, is encountered.
- (4) The dog must not cause a nuisance, annoyance or distress to any person or animal or damage to any property that would give rise to any reasonable complaint as to its behaviour while being exercised in a designated exercise area.

**b) Controlled Areas**

- (1) In a controlled area the owner and any person for the time being having charge of any dog shall ensure that the dog is kept on a leash, chain or lead which is in turn secured or held so that the dog cannot break loose.
- (2) Any area not identified as an exercise area or prohibited area is to be considered a controlled area.

**c) Prohibited Areas**

- (1) Dogs are not permitted in a prohibited area, as listed in the first schedule, at any time.
- (2) Dogs may be prohibited, as publicly notified from time to time, from some areas during periods when a high concentration of people is likely to create potential conflict.
- (3) Dogs may be prohibited, as publicly notified from time to time, from some areas where potential conflict with the general public or wildlife may occur.

- (4) A dog on a leash may pass through a prohibited area when it is used as a thoroughfare and no other reasonable access exists to an area where a dog may be exercised.

## **6.2 Working Dogs**

- (1) The provisions of section 6.1 shall not apply to a working dog carrying out the work in respect of which the dog has been registered.
- (2) For the absence of doubt under section 6.2(1) a working dog must be on a leash in a prohibited public place unless they are carrying out the work in respect of which they have been registered.

## **6.2 Permit to Keep More Than Three Dogs**

- (1) No more than three dogs of registrable age (whether or not such a dog is registered) may be kept on any premises unless:
  - (a) The owner or occupier is the holder of a kennel permit to keep four or more dogs; or
  - (b) The premises are zoned rural in the relevant, operating Central Otago District District Plan.
- (2) No permit shall be granted to the owner or occupier of any premises if such premises, by reason of inadequate fencing, size, location or detrimental effect on any other premises, would be inappropriate for the housing of four or more dogs.
- (3) If the property in which the dog owner resides is leased, the written consent of the property owner is required to keep four or more dogs on that property before any consideration for a Kennel Permit will be given. A copy of such consent must be forwarded to Council.
- (4) A permit issued under this Clause is subject to the conditions set by the Council.

- (5) Any breach of such conditions or other terms or restrictions shall be a breach of this Bylaw.
- (6) Any permit may be revoked by the Council for breach of conditions or, in the event of change of circumstances relating to the premises, the owner or occupier thereof or the animals kept or remaining on such premises.
- (7) Applications for permits to keep more than four dogs shall be made on the form supplied by the Council and shall provide such information in respect of the application as the Council may reasonably require.
- (8) There shall be paid to the Council for every such permit an inspection fee which the Council may from time to time by resolution publicly notified prescribe, and on each 1st day of July following the date of issue, an annual fee may be charged for the following twelve months.
- (9) The fee for such permits shall be payable in addition to the registration fees payable under the Act.

### **6.3 Dog Control Fees**

- (1) The Council shall regularly review its dog control fees. Fees will be set by resolution, publicly notified and advertised before the beginning of each registration year.
- (2) The owner of any dog shall be charged a registration fee payable to the Council by 31 July each year. A late fee will apply if payment is made after August 30 in any year.
- (3) Different fees may apply to different classes of dogs or owners. A reduced fee may apply for certified companion dogs, hearing dogs, guide dogs and for working dogs.
- (4) Registration fees for dogs that are 3 months of age shall be calculated on a pro rata basis. For the first registration of a dog on its 3-month birthday only the balance of the year will be due.

- (5) If a dog owner relocates to the Central Otago District, the owner may exchange the registration tag from the previous district for a Central Otago tag free of charge.
- (6) Fees will be charged for the destruction of dogs and for the issue of replacement registration tags.
- (7) Other fees related to the costs of dog control may also be payable as determined by Council resolution.

#### **6.4 Impounding of Dogs**

- (1) When any contravention of Section 52 (1)(2) of the Act occurs, the dog may be impounded in a dog pound in accordance with Section 52(3) of the Act.
- (2) Impounding may occur whether or not the dog is wearing a collar with the proper registration tag attached.
- (3) A dog may be seized by a dog control officer if it considered as not being under control or is likely to cause annoyance, distress or damage to any person or property.
- (4) A dog is considered to 'not be under control' if it is at large on land or premises without the consent of the occupier or person in charge of that property.
- (5) Prior to release from the pound any unregistered dog must be registered.
- (6) Any dog may be impounded where an inspection of the dog and the conditions in which it is being kept give a dog control officer good cause to suspect that an offence against the Act has been committed.
- (7) Animal Control Officers may elect in some circumstances to require the owner of a continually offending dog to have the dog neutered or spayed.

#### **Impounding Fees**

- (1) The Council shall set a fee for the impounding of dogs and associated costs.

- (2) Impounding fees may be set at different rates for registered versus non registered dogs and may be graduated according to the number of impounding offences against the same dog.

#### **6.4 Fouling in Public Places**

- (1) No person being the owner or a person having charge of any dog shall permit the dog to defecate in a public place or on land or premises other than that occupied by the owner.
- (2) No offence shall be deemed to be committed against this bylaw where the owner or the person having charge of the dog removes the faeces immediately after the dog has deposited them.
- (3) Any person having charge of any dog shall at all times while exercising the dog whether within a designated exercise area or any public place carry a suitable receptacle to remove and dispose of dog faeces immediately after the dog has deposited them.
- (4) Plastic bags, paper bags or acceptable container are examples of suitable receptacles.
- (5) Where a public litter bin or similar receptacle is used to dispose of the droppings, they must be suitably wrapped or contained to prevent fouling the receptacle.

#### **6.5 Nuisances/Barking**

- (1) The owner of any dog and the owner or the occupier of any premises on which any dog or dogs are kept shall:
  - (a) Take adequate precautions to prevent the dog or dogs or the keeping thereof from becoming a nuisance or annoyance.
- (2) Pursuant to section 55 and 56 of the Act, when any reasonable complaint relating to the persistent, loud barking of any dog is received, a dog control officer may;
  - (a) enter a property where the dog is kept (with the exception of a dwelling house) to inspect the animal's living conditions; and

- (b) give written notice to the dog owner requiring them to take reasonable action to limit the disturbance.
- (3) If notice is given to a dog owner under subsection (4) and a further complaint of continued barking or howling by the dog is received, the dog may be impounded until the situation can be remedied.

## **6.6 Enforcement Activities**

- (1) Animal control officers may issue an infringement notice, a fine, or both in accordance with the Act as set out in Schedule 2.
- (2) Unpaid fines issued under subsection (1) may be recovered through the Courts as provided for in the Summary Proceedings Act 1957.
- (3) Infringement notices and associated fines will only be waived in exceptional circumstances as determined by the Council.
- (4) A dog control officer may undertake property visits where mistreatment of any dog is suspected.
- (5) A programme of property visits may be implemented to ensure compliance with the Act and as an education and bylaw enforcement tool.
- (6) The council may undertake random patrols to monitor wandering dogs from time to time.



## SCHEDULE 1

### (A) DESIGNATED DOG EXERCISE AREAS

1. Alexandra
  - The Alexandra Pines, State Highway 8
  - The Linger and Die, between Rivers Street and Manuherikia River
  - Town Belt between State Highway 85 and Manuherikia River
2. Clyde
  - Sunderland Street Road Reserve
  - True left bank of Clutha river between Clyde Bridge and Dunstan Hospital
3. Cromwell
  - Victoria Park Reserve, Alpha Street
  - Plantation area adjacent to transfer station, Bannockburn Road
  - Plantation area, between Pearson Road and Bannockburn Road
4. Naseby
  - Eastern side of Hogburn Creek, between Hogburn Bridge and town boundary
  - Vacant land, Channel Road
5. Ranfurly
  - Vacant land, Pery/Tyrone Street intersection
6. Roxburgh
  - Ladysmith Walkway

### (B) PROHIBITED AREAS-TOWN OR RETAIL CENTRES

1. Alexandra Town Centre
2. Cromwell Mall
3. Old Cromwell
4. Ranfurly Town Centre
5. Roxburgh Town Centre

**Schedule 2    Infringement Offences and Fees as specified in Schedule 1 of the Dog Control Act**

Section of Act	Action	Infringement fee (\$)	Max. fine on conviction (\$)
18	Wilful obstruction of dog control officer or dog ranger(in the exercise of his/her powers)	750	3,000
19(2) 19A(2)	Failure/refusal to supply information/wilfully stating false particulars	750	3,000
20 (5)	Failure to comply with a bylaw	300	20,000
28(5)	Failure to comply with effects of disqualification	750	3,000
32(2)	Failure to comply with effects of classification as dangerous dog	300	3,000
32(4)	Fraudulent sale/transfer of a dangerous dog	500	3,000
33E(2)	Failure to comply with effects of classification of dog as a menacing dog	300	3,000
36A(6)	Failure to implant microchip transponder in dog	300	
41	False statement relating to registration	750	3,000
42	Keeping an unregistered dog	300	3,000
46(4)	Fraudulent attempt to procure replacement tag	500	3,000
48(3)	Failure to advise change of ownership of a dog	100	500
49(4)	Failure to advise a change of address	100	500
51(1)	Removal or swapping of labels or discs	500	3,000
52A	Failure to keep dog controlled or confined	200	3,000
53(1)	Failure to keep a dog under proper control	200	3,000
54(2)	Failure to meet obligations of a dog owner	300	5,000
54A	Failure to carry a leash in public	100	500
62(4)	Allowing a dangerous dog to be at large unmuzzled	300	3,000

Offences other than infringement offences

Section of Act	Action	Max. fine on conviction (\$)
55(7)	Barking dog	1,500
57 , 57A	Dogs attacking persons or animals or rushing at vehicles	3,000
58	Dogs causing serious injury	3 years imprisonment and/or \$20,000