

Ipswich

City Council

Local Law No. 6 *(Animal Management) 2013*

Contents

PART 1	PRELIMINARY.....	3
1	<i>Short title</i>	3
1A	<i>Commencement</i>	3
2	<i>Object</i>	3
3	<i>Definitions—the dictionary</i>	3
4	<i>Relationship with other laws</i>	3
5	<i>Requirement for a permit</i>	4
PART 2	KEEPING OF ANIMALS.....	5
DIVISION 1	ANIMAL REGISTRATION AND IDENTIFICATION	5
6	<i>Requirement to register and identify</i>	5
7	<i>Identification of registered cats and dogs</i>	6
8	<i>Minimum standards</i>	6
DIVISION 2	DESEXING ANIMALS	6
9	<i>Requirement to desex an animal</i>	6
DIVISION 3	PROHIBITED ANIMALS	7
10	<i>Prohibited animals</i>	7
PART 3	CONTROL OF ANIMALS	8
DIVISION 1	ANIMALS IN PUBLIC PLACES	8
11	<i>Exclusion of animals from public places</i>	8
12	<i>Off-leash areas</i>	8
13	<i>Animal to be under effective control</i>	9
14	<i>Person in control of animal to clean up animal faeces</i>	10
DIVISION 2	ENCLOSURE REQUIREMENTS	10
15	<i>Requirements to provide an enclosure</i>	10
DIVISION 3	AGGRESSIVE ANIMALS (OTHER THAN DOGS)	11
16	<i>Animal attacks</i>	11
17	<i>Defences for offences against section 16</i>	12
DIVISION 4	DANGEROUS ANIMALS OTHER THAN DOGS	13
18	<i>Declaration of dangerous animal other than a dog</i>	13
19	<i>Power to require owner or responsible person for a dangerous animal to take specified action</i>	13
DIVISION 5	REMOVAL OF ANIMALS	14
20	<i>Power to remove an animal</i>	14
PART 4	SEIZURE AND IMPOUNDING OF ANIMALS.....	14
DIVISION 1	SEIZURE OF ANIMALS	14
21	<i>Seizure of an animal</i>	14
22	<i>Immediate return of animal found wandering</i>	16
DIVISION 2	IMPOUNDING OF ANIMALS	16
23	<i>Impounding of seized animal</i>	16
24	<i>Dealing with animal seized and impounded for wandering</i>	17
25	<i>Dealing with animal seized and impounded for non-compliance with local law....</i>	18

26	<i>Dealing with animal seized and impounded for attacking etc a person or another animal.....</i>	19
27	<i>Reclaiming an impounded animal.....</i>	19
28	<i>Register of impounded animals.....</i>	20
29	<i>Access to impounded animal.....</i>	21
30	<i>Unlawful removal of seized or impounded animal</i>	22
DIVISION 3	SALE OR DISPOSAL OF ANIMALS	22
31	<i>Application of this division</i>	22
32	<i>Sale or disposal of animals</i>	23
PART 5	DESTRUCTION OF ANIMALS	24
DIVISION 1	DESTRUCTION OF ANIMALS	24
33	<i>Destruction of an animal.....</i>	24
DIVISION 2	APPEALS AGAINST DESTRUCTION ORDERS.....	27
34	<i>Appealable decisions</i>	27
35	<i>Starting appeal.....</i>	27
36	<i>Stay of destruction order.....</i>	27
37	<i>Powers of Court on appeal</i>	27
PART 6	MISCELLANEOUS.....	28
38	<i>Sale of animals</i>	28
39	<i>Prohibition of identifying tags designed to confuse.....</i>	29
PART 7	SUBORDINATE LAWS	29
40	<i>Subordinate local laws</i>	29
PART 8	TRANSITION, SAVINGS AND REPEALS.....	31
41	<i>Repeals</i>	31
42	<i>Existing Permits</i>	31
SCHEDULE	DICTIONARY.....	32
ENDNOTES		38
1	<i>Index to Endnotes</i>	38
2	<i>Date to which amendments incorporated</i>	38
3	<i>Key</i>	38
4	<i>Table of reprints</i>	38
5	<i>List of legislation.....</i>	38
6	<i>List of annotations.....</i>	38

Part 1 Preliminary

1 Short title

This local law may be cited as *Local Law No. 6 (Animal Management) 2013*.

1A Commencement

This local law commences on 1 August 2013.

2 Object

The objects of this local law are to regulate the keeping of animals—

- (a) to protect the community against risk of injury and damage; and
- (b) to ensure that animals do not create a nuisance or a risk to human health or safety; and
- (c) to prevent environmental harm and environmental nuisance resulting from the keeping of animals and to protect the amenity of the local environment; and
- (d) to ensure that animals are kept and used in a way that is consistent with the rights, expectations and enjoyment of the local community.

3 Definitions—the dictionary

- (1) The dictionary in the Schedule (Dictionary) defines particular words used in this local law.
- (2) The dictionaries in *Local Law No.1 (Administration) 2013* and *Local Law No.4 (Permits) 2013* also define words used in this local law.

4 Relationship with other laws

This local law is in addition to, and does not derogate from—

- (a) the *Animal Management (Cats and Dogs) Act 2008*¹ and
- (b) the *Local Government Act 2009*; and
- (c) the *Sustainable Planning Act 2009*; and
- (d) the *Weapons Act 1990*; and
- (e) the *Health Act 1937*; and

¹ The *Animal Management (Cats and Dogs) Act 2008* provides for the management of regulated dogs, comprising declared dangerous dogs, declared menacing dogs and restricted dogs.

- (f) the *Nature Conservation Act 1992*; and
- (h) the *Apiaries Act 1982*; and
- (i) the *Food Act 2006*; and
- (j) the *Guide, Hearing and Assistance Dogs Act 2009*; and
- (k) the *Land Protection (Pest and Stock Route Management) Act 2002*; and
- (l) other Acts (including subordinate legislation) about the keeping or control of an animal.

5 Requirement for a permit²

- (1) A person (other than a local government) must not undertake an activity which is a permit regulated activity³ unless authorised by a permit granted pursuant to this local law and *Local Law No.4 (Permits) 2013*⁴.

Maximum penalty for subsection (1) –

- (a) for first offence – 20 penalty units.
 - (b) for second offence within a 2 year period – 30 penalty units.
 - (c) for third or further offences within a 2 year period – 50 penalty units.
- (2) Notwithstanding section 5(1) (Requirement for a permit) of this local law, a permit is not required if—
 - (a) a local law or subordinate local law specifies that a permit is not required in respect of the undertaking of the permit regulated activity; or
 - (b) a local law or subordinate local law specifies circumstances under which a permit is not required in respect of the undertaking of the permit regulated activity; or
 - (c) the undertaking of the permit regulated activity is authorised by a Local Government Act.

² The circumstances in which the keeping of animals requires a permit is set out fully in *Subordinate Local Law 6.1 (Animal Management) 2013*

³ For the definition of *permit related activity* see the Schedule

⁴ *Local Law No. 4 (Permits) 2013* sets out the procedures for the application, granting, conditioning and enforcement of permits

- (3) Notwithstanding section 5(1) (Requirement for a permit) of this local law, the holder of the permit must not undertake the permit regulated activity until all approvals required under legislation in respect of the permit regulated activity have been obtained.

Part 2 Keeping of animals

Division 1 Animal registration and identification

6 Requirement to register and identify

- (1) This section does not apply to any animals to which Chapter 3 of the *Animal Management (Cats & Dogs) Act 2008* applies.
- (2) The local government may, by subordinate local law prescribe—
- (a) by species or breed, animals which are required to be registered;
 - (c) the timeframes, within which persons keeping animals which are required to be registered, are to apply for registration;
 - (d) the registration period for an animal or a particular species or breed of animal; and
 - (e) registrations which will be automatically renewed or extended upon payment of the prescribed fee.
- (3) A person must not keep an animal for which registration is required unless the person holds a current certificate of registration for the animal from the local government.

Maximum penalty – 20 penalty units.

- (4) A person who keeps a registered animal must ensure that the animal bears the identification prescribed by subordinate local law.

Maximum penalty – 20 penalty units.

7 Identification of registered cats and dogs

The local government may by subordinate local law, prescribe the identification required by the *Animal Management (Cats and Dogs) Act 2008*.⁵

8 Minimum standards

(1) The local government may by subordinate local law prescribe requirements (minimum standards) for the undertaking of the activity of animal keeping.

(2) A person who undertakes the activity of animal keeping must ensure any prescribed minimum standards are complied with.

Maximum penalty for subsection (2) – 20 penalty units

(3) If the animal keeping activity is also a permit regulated activity the obligation to comply with the prescribed minimum standards is in addition to any obligation to comply with the conditions imposed by any permit.

(4) The local government may give a person a compliance notice in relation to a minimum standard as if the minimum standard were a condition of a permit.

Division 2 Desexing animals

9 Requirement to desex an animal

(1) The local government may, by subordinate local law, require that an animal be desexed.

(2) The subordinate local law may—

- (a) specify the particular species or breed of animals that must be desexed;
- (b) specify that the requirement for desexing applies only when an animal reaches a certain age;
- (c) specify that an animal must be desexed in certain circumstances; and

⁵ Section 45 of the *Animal Management (Cats and Dogs) Act 2008* requires a person who keeps a cat or dog at a place other than the address in a registration notice to ensure that the animal bears the identification prescribed by local law.

Examples for paragraph (c) —

Desexing an animal kept in a small lot housing development might be required where 2 or more animals of the same species are being kept.

(d) exempt animals under particular circumstances.

Example for paragraph (d) —

Exemption might be provided for an animal that is owned by a member of a recognised breeders' association for the purposes of breeding or showing or an animal may be exempt for health reasons.

(3) A person must not keep an animal which is required to be desexed, unless the animal has been desexed.

Maximum penalty - 20 penalty units.

Division 3 Prohibited animals

10 Prohibited animals

- (1) The local government may, by subordinate local law, prohibit the keeping of animals in particular circumstances.
- (2) The prohibition may be imposed by reference to one or more of the following factors—
 - (a) species;
 - (b) breed;
 - (c) sex;
 - (d) age;
 - (e) number;
 - (f) whether the animal is a restricted dog⁶;
 - (g) the locality in which the animals are to be kept;
 - (h) the nature of the premises, including the size of enclosure, in which the animals are to be kept⁷; and

⁶ Section 72(3) of the *Animal Management (Cats and Dogs) Act 2008* provides: "A permit application may be made for more than 1 restricted dog for the same place only if the keeping of more than 1 restricted dog and more than 1 dog of any breed is permitted under a local law."

⁷ See the *Animal Management (Cats and Dogs) Act 2008*, chapter 4, regarding particular conditions on keeping

- (i) the compliance history of the keeper of the animal.

- (3) A person must not keep an animal in contravention of a prohibition under this section.

Maximum penalty – 50 penalty units.

Part 3 Control of animals

Division 1 Animals in public places

11 Exclusion of animals from public places

- (1) The local government may, by subordinate local law, specify public places where animals, or animals of a particular species or breed, are prohibited.
- (2) The owner or responsible person for an animal must ensure that an animal is not in a public place in contravention of a prohibition imposed under subsection (1).

Maximum penalty - 20 penalty units.

- (3) The local government must take reasonable steps to provide notice to members of the public regarding the animals that are prohibited in a particular public place.
- (4) In this section—

reasonable steps include the display of a notice at an entry point or such other prominent place within the particular public place, stating—

- (a) the animals that are prohibited in the place; and
- (b) in general terms, the provisions of subsection (2).

12 Off-leash areas

- (1) The local government may, by a subordinate local law, a recording in a register, or a sign exhibited on a local government controlled area, designate an area within a public place as an area where an animal, or an animal of a particular species or breed, is not required to be on a leash (**off-leash area**).

- (2) The local government must take reasonable steps to provide notice to members of the public regarding the designation of an area as an off-leash area.

- (3) In this section—

reasonable steps include the display of a notice at an entry point or such other prominent place within the off-leash area indicating the extent of the area.

13 Animal to be under effective control

- (1) For the purpose of this section an animal is regarded as being under the effective control of someone when—

- (a) a person who is physically able to control the animal—
- (i) is holding the animal by a leash, halter, harness or rein;
 - (ii) has tethered the animal to a fixed object and continuously supervises the animal; or
 - (iii) has corralled the animal in a temporary enclosure adequate to wholly contain the animal and continuously supervises the animal; or

- (b) the animal is tethered in, or on a vehicle, and no part of the animal is able to reach beyond the extremities of the vehicle;

Note -

For example, a horse cannot reach out of a horse float or a dog cannot bite a person walking past.

- (c) the animal is in a designated off-leash area and under the supervision of a person who is in close proximity to the animal;
- (d) the animal is participating in, or being exhibited or trained at, an exhibition or an obedience trial supervised by a body recognised for the purpose of this section by the local government; or
- (e) the animal is a working animal actually engaged in moving livestock and under the supervision of a person who is able to control the animal by voice command.

- (2) The owner or responsible person for an animal must ensure that an animal is not in a public place—

- (a) unless the animal is under the effective control of someone;
and
- (b) if the animal is a declared dangerous animal, unless the
animal is securely restrained to prevent it from—
 - (i) attacking a person or animal;
 - (ii) acting in a way that causes fear to a person or
animal; or
 - (iii) causing damage to property.

Maximum penalty if the animal is a declared dangerous animal – 50
penalty units.

Maximum penalty if the animal is not a declared dangerous animal – 20
penalty units

- (3) The owner or responsible person for a dog that is on heat or that has an
infectious disease must ensure that the animal is not in a public place.

Maximum penalty – 20 penalty units.

14 Person in control of animal to clean up animal faeces

- (1) If any animal defecates in a public place, the person who has control of
the animal must immediately remove and dispose of the faeces in a
sanitary way.

Maximum penalty - 20 penalty units.

- (2) The person in control of an animal in a public place must carry
receptacles for removing and disposing of faeces while in or on a public
place.

Maximum penalty - 20 penalty units.

Division 2 Enclosure requirements

15 Requirements to provide an enclosure

- (1) A person who keeps an animal must provide and maintain a proper
enclosure to prevent the animal from wandering, or the animal or any

part of the animal escaping, from the person's land on which the animal is kept⁸.

Maximum penalty - 30 penalty units.

- (2) The local government may by subordinate local law, prescribe requirements for a proper enclosure for an animal or species or breed of animal.
- (3) The owner of an animal must ensure it is not wandering.

Maximum penalty - 20 penalty units.

- (4) It is a defence to a prosecution for an offence against subsection (3) for the defendant to prove that—
 - (a) the defendant maintained a proper enclosure for the animal and could not, by the exercise of reasonable diligence, have prevented the escape of the animal; or
 - (b) the animal was wandering in circumstances authorised by the conditions of a permit granted under a local law.

Example for paragraph (b)—

The conditions of a permit to keep racing pigeons might authorise the permit holder to release the pigeons from their enclosure for a certain amount of time each day and during official pigeon racing events.

Division 3 Aggressive animals (other than dogs)

16 Animal attacks

- (1) Unless otherwise indicated this division does not apply to aggressive behaviour by dogs.
- (2) A responsible person for an animal must take reasonable steps to ensure the animal does not engage in aggressive behaviour.

Maximum penalty for subsection (2)—

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

⁸ See also Animal Management (Cats and Dogs) Act 2008, schedule 1, sections 4 to 5, regarding the requirements about enclosures for declared dangerous dogs, declared menacing dogs and restricted dogs.

- (c) if the attack causes bodily harm to a person or another animal—50 penalty units; or
 - (d) otherwise—20 penalty units.
- (3) A person must not allow or encourage an animal to engage in aggressive behaviour.

Maximum penalty for subsection (3)—

- (a) if the attack causes the death of or grievous bodily harm to a person—300 penalty units; or
 - (b) if the attack causes the death of or grievous bodily harm to another animal—100 penalty units; or
 - (c) if the attack causes bodily harm to a person or another animal—50 penalty units; or
 - (d) otherwise—20 penalty units.
- (4) In this section—

aggressive behaviour means attacking or acting in a way that causes fear to someone else or another animal;

allow or encourage, without limiting the Criminal Code, sections 7 and 8, includes cause, to allow or encourage;

another animal does not include vermin which are not the property of anyone, provided that the vermin are not protected animals under the *Nature Conservation Act 1992*.

Examples of vermin which are someone's property—

- a pet mouse or guinea pig
- vermin that are protected animals under the *Nature Conservation Act 1992*.

17 Defences for offences against section 16

It is a defence to a prosecution for an offence against section 16 (Animal Attacks) of this local law for the defendant to prove that the animal attacked, or acted in a way that caused fear to, the person or other animal—

- (a) as a result of the animal being attacked, mistreated, or provoked by the person or other animal, including a dog; or
- (b) to protect the responsible person in relation to –

- (i) an attack or act by an animal that would be an offence under subsection 16(2) (Animal Attacks) of this local law;
- (ii) an act or omission by a person that would an offence under subsection 16(3) (Animal Attacks) of this local law;
- (iii) a person accompanying the responsible person (the accompanying person); or
- (iv) the responsible person's property.

Division 4 Dangerous animals other than dogs

18 Declaration of dangerous animal other than a dog

- (1) A local government may by subordinate local law specify criteria for an authorised person to declare an animal, other than a dog, to be a declared dangerous animal.
- (2) An authorised person may declare an animal to be a declared dangerous animal if the animal meets the criteria prescribed by subordinate local law.
- (3) On declaration of an animal as a declared dangerous animal, the local government must give the responsible person for the animal an information notice about the declaration.

19 Power to require owner or responsible person for a dangerous animal to take specified action

- (1) An authorised person may give the owner or responsible person for a declared dangerous animal a compliance notice to take specified action—
 - (a) to warn persons who enter land on which the animal is kept of the presence of a declared dangerous animal on the land;
 - (b) to ensure that the animal remains in secure custody and is unable to attack or cause fear or injury to persons or other animals or cause damage to property; and
 - (c) any other action prescribed by subordinate local law.
- (2) A person must comply with a compliance notice under subsection 19(1).

Maximum penalty - 50 penalty units.

Division 5 Removal of animals

20 Power to remove an animal

- (1) An authorised person may issue a notice (a **removal notice**) to the owner or responsible person for an animal—
 - (a) who has not complied with a compliance notice which has been issued in relation to compliance with this local law; or
 - (b) who does not hold a current certificate of registration in accordance with section 6(3) (Requirement to register and identify) of this local law.
- (2) A removal notice may require the owner or responsible person for an animal, within the reasonable time stated in the notice, to—
 - (a) destroy the animal or have it destroyed; or
 - (b) permanently remove it from the area specified in the notice.
- (3) The recipient of a removal notice must comply with it.

Maximum penalty for subsection (3) - 50 penalty units.
- (4) If the owner or responsible person fails to comply with a removal notice, an authorised person may enter the land on which the animal is kept under the powers of entry given by the Act and seize the animal and dispose of the animal under Division 3 of Part 5 of this local law.

Part 4 Seizure and impounding of animals

Division 1 Seizure of animals

21 Seizure of an animal

- (1) An authorised person may seize an animal which is not a regulated dog⁹ that is on a public place if the animal is—
 - (a) found wandering; or
 - (b) a dangerous animal; or
 - (c) a declared dangerous animal; or

⁹ The seizure of a regulated dog on a public place is provided for in the *Animal Management Act*.

- (d) a prohibited animal; or
 - (e) not under effective control; or
 - (f) a feral animal; or
 - (g) an animal which the authorised person reasonably believes has attacked or worried a person or another animal, or threatened to attack a person or another animal, or acted in a way that causes fear to a person or another animal; or
 - (h) of a class or type specified in a subordinate local law; or
 - (i) the owner or responsible person for the animal has not complied with a compliance notice that has been issued in relation to compliance with this local law; or
 - (j) an animal that is causing a nuisance.
- (2) An authorised person may enter a private place¹⁰ to seize and impound an animal which is not a regulated dog¹¹—
- (a) if the animal is not under effective control in circumstances where it can gain ready access to a public place; or
 - (b) if the animal is a dangerous animal or a declared dangerous animal which is not under effective control on vacant land; or
 - (c) if the animal is a dog which an authorised person reasonably believes has attacked or worried a person, animal or thing; or
 - (d) if the owner in circumstances where there is no occupier of the premises or the occupier of the premises requests the local government to enter the premises and seize and impound an animal found on the premises; or
 - (e) if the keeper of the animal, who is not the owner of the premises or the occupier of the premises, requests the local government to enter the premises and seize and impound the animal; or
 - (f) in the circumstances specified in *Local Law No. 4 (Permits) 2013* section 17 (Performance of works) and *Local Law No. 4 (Permits) 2013* section 18 (Powers of entry and cost recovery).

¹⁰ The exercise of this power is subject to the powers of entry provisions of the *Local Government Act 2009*.

¹¹ The seizure of a regulated dog on a private place is provided for in the *Animal Management(Cats and Dogs) Act 2008*.

- (g) if the owner or responsible person for the animal has not complied with a compliance notice that has been issued in relation to compliance with this local law.
- (3) The local government may, for the purposes of seizing an animal which is not a regulated dog, use any reasonable method of capturing, trapping, controlling or sedating the animal including the use of mechanical devices and tranquillising devices.
- (4) The owner of premises, in circumstances where there is no occupier of the premises, or the occupier of premises may—
 - (a) seize an animal found on the premises; and
 - (b) deliver the animal to an authorised person to be impounded.
- (5) A person may seize an animal found wandering at large in a public place and deliver the animal to an authorised person to be impounded.
- (6) An authorised person is not obliged to accept the custody of an animal delivered under subsection (4) or subsection (5).

22 Immediate return of animal found wandering

- (1) This section applies where—
 - (a) an animal has been seized under section 21(1)(a) (Seizure of an animal); and
 - (b) the authorised person who seizes the animal knows, or can readily find out, the name and address of the owner or responsible person for the animal.
- (2) The authorised person may return the animal to the owner or responsible person upon payment of the prescribed fee.

Division 2 Impounding of animals

23 Impounding of seized animal

An authorised person who seizes an animal under this local law or another law may impound the animal at a place of care for animals operated by—

- (a) the local government; or

- (b) another organisation or local government prescribed by subordinate local law.

Example for paragraph(a) —
An animal pound.

Example for paragraph(b) —
A veterinary surgery or an animal refuge.

24 Dealing with animal seized and impounded for wandering

- (1) For the purpose of this section an ***impoundment notice*** means a written notice given to the owner or responsible person for an animal, stating that—

- (a) the animal has been impounded; and
- (b) the animal may be reclaimed within the prescribed period provided that—
- (i) the prescribed fee is paid; and

Example of prescribed fee—
The prescribed fee may include—

- the amount incurred by the local government in the seizure and impounding of the animal under Part 5 (Seizure and impounding of animals) of this local law; and
 - the amount properly and reasonably incurred by the local government in the care of the animal such as sustenance and veterinary fees.
- (ii) if a permit or registration is required for the keeping of the animal and the owner or responsible person does not have the permit or registration— the permit or registration is obtained; and
- (iii) if the animal has been seized under section 21(1)(i) (Seizure of an animal) or 21(2)(g) (Seizure of an animal) — the owner or responsible person has complied with the relevant compliance notice; and
- (iv) continued retention of the animal is not needed as evidence for a proceeding or proposed proceeding for an offence involving the animal; and
- (v) the animal may be destroyed without further notice if the animal is not reclaimed within the prescribed period.

- (2) The authorised person must give the owner or responsible person an impoundment notice where—
 - (a) an authorised person has impounded an animal seized under section 21(1)(a) (Seizure of an animal); and
 - (b) the animal was not a declared dangerous animal at the time of being seized; and
 - (c) the authorised person knows, or can readily find out, the name and address of the owner or responsible person for the animal.
- (3) Subsection (4) applies where—
 - (a) an authorised person has impounded a declared dangerous animal seized under section 21(1)(a) (Seizure of an animal); or
 - (b) an authorised person has impounded an animal that has been seized more than 3 times during a 12 month period.
- (4) The authorised person may—
 - (a) give the owner or responsible person for the animal an impoundment notice; or
 - (b) make a destruction order for the animal under section 34.

25 Dealing with animal seized and impounded for non-compliance with local law

- (1) This section applies where an authorised person has impounded an animal seized under section 21(1)(i) (Seizure of an animal) or 21(2)(g) (Seizure of an animal).
- (2) The authorised person may—
 - (a) give the owner or responsible person for the animal an impoundment notice; or
 - (b) if the animal:
 - (i) was being kept in contravention of section 10 (Prohibited animals) of this local law; or

- (ii) is an animal for which a permit cannot be granted under this local law; or
- (iii) is an animal for which an application for a permit under a local law has been rejected.

dispose of the animal under Part 6 (Destruction of animals).

26 Dealing with animal seized and impounded for attacking etc a person or another animal

- (1) This section applies where an authorised person has impounded an animal seized under section 21(1)(g) (Seizure of animal) or section 21(2)(c) (Seizure of animal).
- (2) The authorised person may —
 - (a) make a destruction order for the animal under section 34; or
 - (b) give the owner or responsible person an impoundment notice under section 24(1) (Dealing with animal seized and impounded for wandering).

27 Reclaiming an impounded animal

- (1) This section applies where—
 - (a) the owner or responsible person for an animal has been given an impoundment notice; or
 - (b) an authorised person does not know, and cannot readily find out, the name and address of an owner or responsible person for the animal.
- (2) The animal may be reclaimed by an owner or responsible person if the owner or responsible person—
 - (a) reclaims the animal within the prescribed period; and
 - (b) pays the prescribed fee; and
 - (c) if a permit or registration is required for the keeping of the animal and the owner or responsible person does not have the permit or registration— obtains the permit or registration; and

- (d) if the owner or responsible person has not complied with a current compliance notice that has been issued in relation to compliance with this local law—complies with the compliance notice.
- (3) However, the animal may not be reclaimed by an owner or responsible person if—
 - (a) continued retention of the animal is needed as evidence for a proceeding or proposed proceeding for an offence involving the animal; or
 - (b) a destruction order has been made for the animal;
 - (c) the circumstances in which the animal is to be kept are prohibited under a local law.
- (4) The animal may be reclaimed by an owner or responsible person for the animal if an event as follows happens—
 - (a) if subsection (3)(a) applies—
 - (i) the animal’s continued retention as evidence is no longer required; and
 - (ii) the owner or responsible person has satisfied subsection (2)(b)-(d);
 - (b) if subsection (3)(b) applies—
 - (i) a review or appeal is made relating to the destruction order and, as a result of the review or appeal, the order is no longer in force; and
 - (ii) the owner or responsible person has satisfied subsection (2)(b)-(d).

28 Register of impounded animals

- (1) The local government must ensure that a proper record of impounded animals (the **register of impounded animals**) is kept.
- (2) The register of impounded animals must contain the following information about each impounded animal—
 - (a) the species, breed and sex of the animal; and

- (b) any brand on the animal; and
 - (c) colour, distinguishing markings and features of the animal; and
 - (d) if applicable—the registration number of the animal; and
 - (e) if known—the name and address of the responsible person; and
 - (f) the date and time of seizure and impounding; and
 - (g) the name of the authorised person who impounded the animal; and
 - (h) the reason for the impounding; and
 - (i) a note of any order made by an authorised person relating to the animal; and
 - (j) the date and details of whether the animal was sold, released or destroyed; and
 - (k) a note on the condition of the animal if the animal appeared, to the authorised person who impounded the animal, to be sick or injured at the time of impoundment.
- (3) The register of impounded animals must be kept available for public inspection at the place of care for animals or, if the place has no public office, at an office prescribed by subordinate local law.

29 Access to impounded animal

- (1) This section applies to an animal impounded under section 23 (Impounding of seized animal).
- (2) The local government must allow the owner of the animal to inspect it any reasonable time, from time to time.
- (3) Subsection (2) does not apply if it is impracticable or would be unreasonable to allow the inspection.
- (4) The inspection must be provided free of charge.

30 Unlawful removal of seized or impounded animal

- (1) A person must not, without the authority of an authorised person, remove or attempt to remove—
- (a) a seized animal from the custody or control of an authorised person; or
- (b) an impounded animal from the local government’s facility for keeping impounded animals.

Maximum Penalty for subsection (1) —50 penalty units.

- (2) Any costs arising from damage or loss caused by a person contravening subsection (1) is recoverable by the local government as a debt.

Division 3 Sale or disposal of animals

31 Application of this division

This division applies where—

- (a) an impounded animal has not been reclaimed within the prescribed period under section 27(2) (Reclaiming an impounded animal);
- (b) if section 27(3) (Reclaiming an impounded animal) applies— the impounded animal has not been reclaimed within the prescribed period of an event mentioned in section 27(4) (Reclaiming an impounded animal); or
- (c) an impounded animal has not been reclaimed within the prescribed period of the events mentioned in section 33(7) (Destruction orders) occurring; or
- (d) an impounded animal has not been reclaimed within the prescribed period of the events mentioned in section 33(8) (Destruction orders) occurring; or
- (e) an authorised person has seized an animal under section 20(4) (Power to remove an animal); or
- (f) the owner of an animal has surrendered the animal to the local government.

32 Sale or disposal of animals

- (1) The local government may—
- (a) offer the animal for sale by public auction or by tender; or
 - (b) unless the animal is of a species, breed or class to which a subordinate local law specifies this paragraph does not apply—
 - (i) sell the animal by private agreement; or
 - (ii) dispose of the animal in some other way.

Example of subparagraph (ii)—

The animal may be transferred to the RSPCA or other animal welfare organisation.

The animal may be destroyed.¹²

- (2) An animal may only be sold or disposed of under subsection (1) if the local government is satisfied that this will not result in the animal being kept in contravention of the requirements of this local law.

Examples—

- A pig that has been seized because it is being kept in a residential area in contravention of a prohibition under a subordinate local law could be sold to a person outside the urban area but not to another person in an urban area, unless satisfied that it will not be kept in an urban area.
- An animal which a subordinate local law has prohibited in any part of the local government area could not be sold to a person who resides within the local government area.
- A declared dangerous animal could be sold only to a person who has complied with any specified requirements for keeping such an animal.

- (3) If an animal is to be offered for sale at a public auction under this section, notice of the auction, stating the time and place of the auction, must be exhibited at the local government's public office for at least 2 days before the date of the auction and may also be exhibited on the local government's website.
- (4) An amount realised on sale of an impounded animal must be applied—
- (a) first, towards the reasonable expenses incurred in the selling of the animal; and

¹² See section 33(1)(b)(vi) (Destruction of an animal) of this local law.

- (b) second, towards the prescribed fee for impounding the animal; and
 - (c) third, if there is an amount owing to an entity under a security interest registered for the property under the *Personal Property Securities Act 2009* (Cwlth) — in payment of the amount owing under the security interest; and
 - (c) fourth, in payment of the remainder to the former owner of the animal, unless the owner had surrendered the animal to the local government.
- (5) The amount payable to the former owner of an impounded animal under section 32(3) (Sale or disposal of animals) of this local law is payable to the local government if—
 - (a) the identity of the former owner of the impounded animal is unknown to the local government from the local government's records; or
 - (b) no person establishes a valid claim to the amount to which the former owner of the impounded animal is entitled within six months of the date of the sale.
- (6) If an animal which is offered for sale by public auction or tender is not sold through the auction or tender process, the local government may dispose of the animal as it considers appropriate.

Examples—

- The local government may give the animal away.
- The local government may have the animal destroyed.

Part 5 Destruction of animals

Division 1 Destruction of animals

33 Destruction of an animal

- (1) The local government may destroy an animal which is not a regulated dog¹³, which—
 - (a) may be seized and impounded under this local law if—

¹³ The destruction of a regulated dog is provided for in the *Animal Management (Cats and Dogs) Act 2008*.

- (i) an authorised person is satisfied that the animal is unable to be seized and impounded using the means reasonably available to the authorised person without undue risk to the health or safety of the authorised person or other person; or
 - (ii) the animal is a feral animal; or
 - (b) has been seized and impounded under this local law if—
 - (i) the animal has been seized and impounded more than three (3) times within a 12 month period; or
 - (ii) the animal is diseased, injured or emaciated; or
 - (iii) the animal is a feral animal; or
 - (iv) the animal is a dangerous animal; or
 - (v) the animal is of a type or breed the keeping of which is prohibited in a subordinate local law; or
 - (vi) the animal has not been reclaimed within a period specified in a subordinate local law; or
 - (vii) a written request is received from the owner of the animal; or
 - (viii) the animal cannot be sold.
- (2) If the local government is satisfied that an impounded animal may be destroyed under sections 23(1)(b)(i) or 23(1)(b)(iv) or 23(1)(b)(vi) (Destruction of an animal) of this local law, the local government is to—
 - (a) make a destruction order; and
 - (b) if the local government knows or can readily ascertain from the local government's records the name and address of the keeper of the impounded animal, serve on the keeper of the impounded animal a copy of the destruction order.
- (3) The destruction order must include or be accompanied by an information notice about the decision to make the destruction order.
- (4) If a destruction order is made for the animal, the local government may destroy the animal 10 business days after the order is served if no

review application has been made relating to the decision to make the order.

- (5) If an application for review has been made against the decision to make the order, the local government may destroy the animal if—
 - (a) the review is finally decided or is otherwise ended; and
 - (b) no application for an appeal has been made against the order; and
 - (c) the order is still in force.
- (6) If an appeal is made relating to the decision to make the order, the local government may destroy the animal if—
 - (a) the appeal is finally decided or is otherwise ended; and
 - (b) the order is still in force.
- (7) If the animal has been impounded, the owner or responsible person for an animal may reclaim the animal if—
 - (a) a review relating to the decision to make the order is finally decided or is otherwise ended; and
 - (b) no application for an appeal has been made against the order; and
 - (c) the order is no longer in force; and
 - (d) the owner or responsible person has satisfied section 27(2)(b)-(d) (Reclaiming an impounded animal).
- (8) If the animal has been impounded, the owner or responsible person for an animal may reclaim the animal if—
 - (a) an appeal relating to the decision to make the order is finally decided or is otherwise ended; and
 - (b) the order is no longer in force; and
 - (c) the owner or responsible person has satisfied section 27(2)(b)-(d) (Reclaiming an impounded animal).
- (9) In this section—

review means a review conducted under the process mentioned in part 6 of the *Local Law No. 1 (Administration) 2013*.

appeal means an appeal under Part 6 Division 2 of this local law.

Division 2 Appeals against destruction orders

34 Appealable decisions

- (1) A decision by an authorised person to destroy an animal or have it destroyed is an appealable decision.
- (2) However, a decision to destroy an animal is not appealable if the decision can be carried into effect without notice to the keeper of the animal.

35 Starting appeal

- (1) An owner or responsible person for an animal, the subject of a destruction order, may appeal to the Magistrates Court against the decision to make the destruction order.
- (2) An appeal must not be started unless a review of the decision to make the destruction order has been finally decided or otherwise ended.
- (3) An appeal is started by—
 - (a) filing notice of appeal with the Magistrates Court in which the owner or responsible person resides; and
 - (b) serving a copy of the notice of appeal on the local government within 14 days after the destruction order is served; and
 - (c) complying with rules of court applicable to the appeal.

36 Stay of destruction order

Upon filing the notice of appeal, the destruction order is stayed until the court decides the appeal.

37 Powers of Court on appeal

- (1) In deciding an appeal, the Magistrates Court may –
 - (a) confirm the destruction order with or without conditions; or

- (b) quash the destruction order with or without conditions.
- (2) The Magistrates Court may only quash the destruction order if the Court is satisfied, on the balance of probabilities, that—
 - (a) the animal was unlawfully seized and impounded; or
 - (b) there was no legal basis for the making of the destruction order; or
 - (c) an alternative order agreed between the local government and the keeper of the impounded animal is consistent with the objects of this local law.
- (3) Where the Magistrates Court quashes the destruction order the Court may make an order for the costs of the appeal against the local government only if the court is satisfied that the animal was unlawfully seized or there was no reasonable basis for making the decision subject to the appeal.
- (4) Where the Magistrates Court confirms a destruction order the Court may order the keeper of the impounded animal to pay the local government's costs of the appeal and all costs relating to the seizure, impounding, care and destruction of the animal.

Part 6 Miscellaneous

38 Sale of animals

- (1) A subordinate local law may specify conditions to be complied with by persons who offer animals, or a particular species of animal, for sale.
- (2) A person must not offer or display animals for sale in the area unless the person complies with the conditions specified in the subordinate local law.

Maximum penalty— 50 penalty units.

39 Prohibition of identifying tags designed to confuse

A person must not manufacture, sell, or have in possession for sale, identifying tags for animals designed to be confused with the identifying tags required for animals under this local law.

Maximum penalty— 20 penalty units.

Part 7 Subordinate laws

40 Subordinate local laws

- (1) The local government may make a subordinate local law with respect to—
 - (a) the circumstances in which keeping of animals is a permit regulated activity pursuant to the schedule (Dictionary – definition of permit regulated activity) of this local law; and
 - (b) when a permit is not required for undertaking a permit regulated activity pursuant to section 5 (Requirement for a permit) of this local law; and
 - (c) the circumstances in which registration of an animal is required pursuant to section 6 (Requirement to register and identify) of this local law; and
 - (d) the form of identification required for registered animals pursuant to section 7 (Identification of registered cats and dogs) of this local law; and
 - (e) the minimum standards for animal keeping pursuant to section 9 (Minimum standards) of this local law.
 - (f) the circumstances in which desexing of an animal is required pursuant to section 9 (Requirement to desex an animal) of this local law; and
 - (g) the circumstances in which the keeping of animals is prohibited pursuant to section 10 (Prohibited animals) of this local law; and
 - (h) the exclusion of animals, or animals of a specified species, from public places pursuant to section 11 (Exclusion of animals from public places) of this local law; and

- (i) designated off-leash areas pursuant to section 12 (Off-leash areas) of this local law; and
- (j) proper enclosure requirements pursuant to section 15 (Requirements to provide an enclosure) of this local law; and
- (k) the criteria for declaring an animal to be a dangerous animal pursuant to section 18 (Declaration of a dangerous animal other than a dog) of this local law; and
- (l) the action that may be specified in a compliance notice given to the owner or responsible person for a dangerous animal pursuant to section 19 (Power to require owner or responsible person for a dangerous animal to take specified action) of this local law; and
- (m) the class or type of animal that may be seized pursuant to section 21 (Seizure of an animal) of this local law; and
- (n) the organisation or local government operating a place of care pursuant to section 23 (Impounding of Seized animals); and
- (o) the prescribed period pursuant to section 24 (Dealing with animal seized and impounded for wandering) of this local law; and
- (p) the office at which the register of impounded animals is available for public inspection pursuant to section 28 (Register of impounded animal) of this local law; and
- (q) circumstances in which an impounded animal may be sold pursuant to section 32 (Sale or disposal of animals) of this local law; and
- (r) the conditions to be complied with by an owner or responsible persons who offer animals, or a particular species of animal for sale pursuant to section 38 (Sale of animals) of this local law
- (s) the exclusion of animals of a particular species from the application of this local law pursuant to the schedule (Dictionary—definition of animal) of this local law; and
- (t) animals specified as dangerous animals pursuant to the Schedule (Dictionary— definition of dangerous animal) pursuant to this local law; and

- (u) activities that are permit regulated activities pursuant to the Schedule (Dictionary— definition of permit regulated activity) of this local law; and
- (v) the period within which an impounded animal is to be reclaimed pursuant to the Schedule (Dictionary—prescribed period) of this local law; and
- (w) animals prescribed to be stock pursuant to the Schedule (Dictionary—definition of stock) of this local law.

Part 8 Transition, Savings and Repeals

41 Repeals

The following Local Laws are repealed —

- Local Law No. 3 (Impounding Animals) 1996, gazetted 22 March 1996
- Local Law No.4 (Keeping and Control of Animals (1998), gazetted 27 November 1998
- Local Law No.7 (Dogs) 2005, gazetted 18 February 2005

42 Existing Permits

Any person who immediately before the commencement of this local law held a permit under any local law to operate an activity which is now a permit regulated activity under this local law is taken to be a holder of a permit under this local law and *Local Law No. 4 (Permits) 2013* to operated that activity.

Schedule

Dictionary

Section 3

animal includes any live mammal (other than a human being), reptile, amphibian, insect, bird, poultry and fish but does not include—

- (a) an animal excluded by a subordinate local law having regard to species, breed, sex, age, use or class of the animal; or
- (b) an animal in so far as the keeping of the animal is regulated by the State or Commonwealth laws.

Example of the keeping of an animal regulated by a State law are bees under the *Apiary Act 1982* which makes provision for prohibiting the keeping of bees on an apiary site which is detrimental to public interest.

animal keeping or **keeping an animal** means the custody or care of an animal by a person, including the keeping of animals for which an approval is required.

animal law means a local law of another local government or a law of the State government relating to the keeping of an animal.

approval has the meaning given in *Local Law No. 1 (Administration) 2013* and includes all conditions of consent, permission, permit, licence, authorisation or approval.

approved form means a form approved by the local government or the chief executive officer.

attack, by an animal, means—

- (a) aggressively rushing at or harassing any person or animal; or
- (b) biting, butting, kicking, or otherwise causing physical injury to, a person or an animal; or
- (c) tearing clothing on, or otherwise causing damage to the property in the immediate possession of, a person.

authorised person means a person authorised by the local government under *Local Law No. 1 (Administration) 2013* to exercise the powers of an authorised person under this local law.

chief executive officer means the chief executive officer as that term is defined in the Act of the local government.

compliance notice means a compliance notice given under—

- (a) section 14 in *Local Law No. 4 (Permits) 2013* or

- (b) another local law that authorises the giving of a compliance notice.

cost-recovery fee means the fee fixed by the local government to cover the costs associated with impounding an animal¹⁴.

dangerous animal means an animal which is not a dog, that—

- (a) is acknowledged in writing to the local government by the keeper of the animal as a dangerous animal; or
- (b) is specified as a dangerous animal by a subordinate local law having regard to—
 - (i) the species, breed, sex, age, use or class of the animal; or
 - (ii) the size, location, nature, type or class of premises on which the animal is ordinarily kept; or
- (c) has been declared as a dangerous animal under an animal law; or
- (d) attacks or worries a person, an animal or a thing; or
- (e) behaves in a way that results in harm to human health or safety, personal injury or property damage; or
- (f) behaves in a way that gives rise to a reasonable cause for fear that the animal is likely to—
 - (i) attack or worry a person, an animal or a thing; or
 - (ii) be a risk of harm to human health or safety, personal injury or property damage.

declared dangerous animal means an animal that the local government has declared as a dangerous animal under section 18 (Declaration of a dangerous animal other than a dog) of this local law.

dog means an animal of the canine species and includes the male and female of the species.

effective control see section 13(1) (Animal to be under effective control).

grievous bodily harm see the Criminal Code.

horses includes donkeys and mules.

identifying tag means a mark or object to identify an animal including, for example —

¹⁴ See the Act, section 97 for the power of a local government to fix a cost recovery fee.

- (a) a metal or plastic disc or plate; or
- (b) a collar; or
- (c) a tattoo or brand; or
- (d) an implant bearing an electronic code.

impoundment notice see section 24(1) (Dealing with animal seized and impounded for wandering)

information notice, for a decision, means a written notice stating the following—

- (a) the decision;
- (b) the reasons for the decision;
- (c) that the person to whom the notice is given may apply for a review of the decision within 10 business days after the notice is given; and
- (d) how to apply for a review,

keeper of an animal means—

- (a) in the case of an animal which is registered under an animal law—
 - (i) the person in whose name the animal is registered under an animal law; or
 - (ii) the person other than an authorised person, who has the immediate custody and control of the animal; or
 - (iii) if the person who has the immediate custody and control of an animal is a minor, the minor's parent or guardian; or
- (b) in the case of an animal which is not registered under an animal law—
 - (i) the person other than an authorised person, who has the immediate custody and control of the animal; or
 - (ii) if the person who has the immediate custody and control of an animal is a minor, the minor's parent or guardian; or
- (c) in the case of an animal which is not registered under an animal law and which is not under the immediate custody or control of a person—
 - (i) the occupier of the premises on which the animal is ordinarily kept; and

- (ii) the owner of the premises on which the animal is ordinarily kept if there is no occupier of the premises

knowledge includes actual or constructive knowledge.

leash means a length of strong, flexible, durable material (not longer than two metres) which may comprise of, or include chain, and which is designed and suitable, in the reasonable opinion of an authorised person, to be attached to the collar of an animal for the purpose of physically controlling, restraining or tethering the animal.

local government means Ipswich City Council.

Local Government Act has the same meaning as in the Act.

local law has the meaning in the Act, section 26, and includes a subordinate local law.

off-leash area see section 12(1) (Off-leash areas).

owner of an animal means —

- (a) its registered owner;
- (b) a person who owns the animal, in the sense of it being the person's personal property;
- (c) a person who usually keeps the animal, including through an agent, employee or anyone else;
- (d) if a person mentioned in paragraphs (a) to (c) is a minor - a parent or guardian of the minor.

permit is an approval required for the lawful operation of a permit regulated activity referred to in section 5 of *Local Law No. 4 (Permits) 2013*.

permit regulated activity means—

- (a) an activity which is specified as a permit regulated activity in this local law; or
- (b) an activity specified as a permit regulated activity in a subordinate law of this local law the operation of which the local government is satisfied may give rise to a risk of —
 - (i) harm to human health or safety or personal injury; or
 - (ii) property damage or a loss of amenity; or
 - (iii) environmental harm or environmental nuisance; or

- (iv) a nuisance
- (c) an activity which would ordinarily be prohibited by the local law or subordinate local law unless authorised by a permit, but for which a local law or subordinate local law specifies that a permit is not required.

prohibited animal means an animal the keeping of which has been prohibited by the local government under section 10(1).

prescribed fee means a cost-recovery fee fixed by the local government, by local law or by resolution under the Act¹⁵.

prescribed period means the period, fixed by subordinate local law, of not less than 3 days commencing on the day an impoundment notice is given to a person or, if no such notice is given to a person, on the day of the seizure.

public place - see the Act, section 125(5).

registered owner, of an animal, means a person recorded as being the owner of the animal in a registry kept by a local government.

responsible person, for an animal, means—

- (a) the person, or the person's employee acting within the scope of the employment, who has immediate control or custody of the animal; or
- (b) the parent or guardian of a minor who has immediate control or custody of the animal; or
- (c) the person who occupies the place at which the animal is usually kept, but does not include—
 - (i) a person who occupies the place at which the animal is usually kept, if an adult who lives at the place keeps the animal; or
 - (ii) a person who has the control or custody of or keeps the animal as an employee of someone else, if the person is acting within the scope of the employment.

stock means alpacas, buffalo, cattle, deer, donkeys, goats, horses, llamas, sheep and pigs and such other animals as the local government, may by subordinate local law, prescribe to be stock for the purpose of this definition.

the Act means the *Local Government Act 2009*.

¹⁵ See the Act, Section 97.

wandering means—

- (a) the animal is not under the effective control of someone; and
- (b) the animal is in either—
 - (i) a public place; or
 - (ii) a private place without the consent of the occupier.

worry means the act of an animal holding any part of a person, an animal or a thing in its mouth whether or not—

- (a) the holding is accompanied by shaking, pulling or pushing; or
- (b) the person, animal or thing suffers any injury or damage.

Endnotes

1 Index to Endnotes

- 2 Date to which amendments incorporated
- 3 Key
- 4 Table of reprints
- 5 List of legislation
- 6 List of annotations

2 Date to which amendments incorporated

3 Key

Key to abbreviations in list of legislation and annotations

Key Explanation

amd = amended

ch = chapter

def = definition

div = division

hdg = heading

ins = inserted

om = omitted

p = page

pt = part

renum = renumbered

rep = repealed

s = section

sch = schedule

sdiv = subdivision

4 Table of reprints

A reprint is issued upon the commencement of an amending instrument. A reprint is given the date of commencement of the amending instrument.

Table of reprints of this local law – no amendments

5 List of legislation

Original Local Law

Local Law No.6 (Animal Management) 2013

date of gazettal 5 July 2013

6 List of annotations