

# **Ipswich**

City Council

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

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## **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          Objects**

- (1)    The purpose of this local law is to regulate and manage the keeping and control of animals in the local government's area in a way that—
  - (a)    balances community expectations with the rights of individuals; and
  - (b)    protects the community against risks to health and safety; and
  - (c)    prevents pollution and other environmental damage; and
  - (d)    protects the amenity of the local community and environment.
- (2)    The purpose is to be achieved by providing for—
  - (a)    the regulation of the keeping of animals in terms of how many, what type, how, and where animals can be kept; and
  - (b)    the prescription of minimum standards for keeping animals; and
  - (c)    the proper control of animals in public places and koala conservation areas; and
  - (d)    the management of dangerous or aggressive animals other than dogs;<sup>1</sup> and
  - (e)    the seizure and destruction of animals in certain circumstances; and
  - (f)    the establishment and administration of animal pounds.

### **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.

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<sup>1</sup> 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.  
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## 4 Relationship with other laws

This local law is—

- (a) in addition to and does not derogate from laws regulating<sup>2</sup> –
  - (i) the use or development of land; and
  - (ii) the keeping or control or welfare of animals; and
  - (iii) public health risks; and
  - (iv) the environment; and
- (b) to be read with *Local Law No. 1 (Administration) 2013* and *Local Law No. 4 (Permits) 2013*.

## 5 Requirement for a permit<sup>3</sup>

- (1) A person (other than a local government) must not undertake an activity which is a permit regulated activity<sup>4</sup> unless authorised by a permit granted pursuant to this local law and Local Law No.4 (Permits) 2013<sup>5</sup>.

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.

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<sup>2</sup> This local law and any subordinate local law made under it do not apply to the extent of any inconsistency with a law of the State or Commonwealth. See the Act, section 27.

<sup>3</sup> The circumstances in which the keeping of animals requires a permit is set out fully in *Subordinate Local Law 6.1 (Animal Management) 2013*.

<sup>4</sup> For the definition of permit related activity see the Schedule.

<sup>5</sup> *Local Law No. 4 (Permits) 2013* sets out the procedures for the application, granting, conditioning and enforcement of permits.

## **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;
  - (b)    the timeframes, within which persons keeping animals which are required to be registered, are to apply for registration;
  - (c)    the registration period for an animal or a particular species or breed of animal; and
  - (d)    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 animals**

The local government may by subordinate local law, prescribe the identification required by the *Animal Management (Cats and Dogs) Act 2008*.<sup>6</sup>

#### **8        Minimum standards**

- (1)    The local government may by subordinate local law prescribe requirements (minimum standards) for the keeping of animals or a particular species or breed of animal.
- (2)    A person who keeps an animal must ensure any prescribed minimum standards are complied with.

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<sup>6</sup> Section 45 of the *Animal Management (Cats and Dogs) Act 2008* requires a person who keeps a dog at a place other than the address in a registration notice to ensure that the animal bears the identification prescribed by local law.  
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Maximum penalty for subsection (2) – 20 penalty units

- (3) If the keeping of an animal is prescribed by subordinate local law to be 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<sup>7</sup> 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

*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.

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<sup>7</sup> See section 30 of *Local Law No. 1 (Administration) 2013* in relation to compliance notices.  
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## **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 dog<sup>8</sup>;
  - (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 kept<sup>9</sup>; and
  - (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.

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<sup>8</sup> 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.”

<sup>9</sup> See the *Animal Management (Cats and Dogs) Act 2008*, chapter 4, regarding particular conditions on keeping regulated dogs, including requirements about enclosures.

- (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 Dog 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 a dog is not required to be on a leash (**dog 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 a dog 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 dog off-leash area indicating the extent of the area.

## 13 Animal to be under effective control

- (1) 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

- (2) 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.

- (3) In this section, effective control means, in relation to –

- (a) a dog in a dog off-leash area, the dog –
  - (i) is under the supervision of a person who is able to control the animal; and
  - (ii) is not engaging in any behaviour which could reasonably harass, cause damage or other injury to another person or animal in the dog off-leash area; or
- (b) any animal, other than a dog in a dog off-leash area –
  - (i) a person who –
    - (A) is physically able to control the animal, whether on its own or in combination with any other animals under that person's control; and
    - (B) understands the responsibility of keeping the animal under control –
      - (I) by holding it by an appropriate leash, halter or rein; or
      - (II) has appropriately tethered it to an object fixed to a place from which the object cannot be moved by the animal and is continuously supervising the animal;
      - (III) has corralled it in a temporary enclosure adequate to contain the animal and is continuously supervising the animal; or
  - (ii) the animal is confined or tethered in, or on, a vehicle and unable to reach beyond the vehicle's extremities; or
  - (iii) the animal is participating in, or being exhibited or trained at, an exhibition, racing meet, racing trial or an obedience trial,

supervised by a body recognised by the local government for this activity.

## **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 kept<sup>10</sup>.

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.

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<sup>10</sup> 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.  
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## **Division 3    Aggressive animals (other than dogs)**

### **15A    Limited application of division to dogs**

Unless otherwise indicated, this division does not apply to dogs.

### **16    Animal attacks**

- (1)    A responsible person for an animal must take reasonable steps to ensure the animal does not engage in aggressive behaviour.

Maximum penalty for subsection (1)—

- (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.

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

- (3)    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.

**engage** means to participate or become involved in, to partake or to act.

## **17 Defences for offences against section 15A**

It is a defence to a prosecution for an offence against section 15A (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 or a person accompanying the responsible person (**accompanying person**) or the responsible person or accompanying person's property.

## **Division 4 Dangerous animals other than dogs**

### **18 Declaration of dangerous animal other than a dog**

- (1) The local government may by subordinate local law specify criteria to declare an animal, other than a dog, to be a declared dangerous animal.
- (2) The local government 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.
- (4) A declaration under subsection (2) takes effect at the time the local government gives the responsible person for the animal an information notice under subsection (3).

### **19 Power to require owner or responsible person for a declared 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 an enclosure approved by an authorised person 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 18(4)(1).

Maximum penalty - 50 penalty units.

## **20 Section not used**

# **Part 4 Seizure and impounding of animals**

## **Division 1 Seizure of animals**

### **21 Seizure of an animal**

(1) Subsection (2) applies only to the extent that section 125 of the *Animal Management (Cats and Dogs) Act 2008* does not apply in relation to an animal that is a dog.

(2) An authorised person may seize an animal in any 1 or more of the following circumstances –

(a) the animal is found wandering, including where –

(i) another person has found the animal wandering and delivered it to an authorised person;

(ii) an occupier of private land has found the animal wandering on the land and requested that an authorised person enter the land to seize it;

(b) the responsible person for the animal has not complied with a compliance notice or destruction order in relation to the animal;

(c) for an animal other than a dog – the animal has attacked a person or another animal or engaged in aggressive behaviour;

(d) the animal is a prohibited animal;

(e) the responsible person for the animal has surrendered it to the local government for rehoming or destruction;

(f) the animal is not, in the authorised person's opinion, under effective control; or

(g) the animal is a declared dangerous animal.

(3) An authorised person 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) An authorised person is not obliged to accept the custody of an animal delivered under this section.

## **22 Immediate return of animal found wandering**

- (1) This section applies where—
- (a) an animal has been seized under section 21(2)(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; and
  - (c) the animal is not a prohibited 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.

### **23A What is an impoundment notice**

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 reasonable 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 keeping 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(2)(b) (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.

## **24 Dealing with animal seized and impounded for wandering**

- (1) 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(2)(a) (Seizure of an animal); and
  - (b) the animal was not a declared dangerous animal at the time of being seized; and
  - (c) the animal is not a prohibited animal; and
  - (d) the authorised person knows, or can readily find out, the name and address of the owner or responsible person for the animal.
- (2) Subsection (3) applies where—
- (a) an authorised person has impounded a declared dangerous animal seized under section 21(2)(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.
- (3) 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(2)(b) (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 32A (Destruction of animals).

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

- (1) This section applies where—
  - (a) an authorised person has impounded an animal under section 21(2)(c) (Seizure of an animal); and
  - (b) the animal is not a prohibited 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 23A (What is an impoundment notice).

## **26A Dealing with animal seized and impounded where keeping is prohibited**

Where an authorised person has impounded an animal seized under section 21(2)(d) (Seizure of animal), the authorised person may make a destruction order for the animal under section 34.

## **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; or
  - (c) the circumstances in which the animal is to be kept are prohibited under a local law.
- (4) Despite subsection (3), an owner or responsible person for the animal may reclaim the animal under subsection (2) if –
  - (a) if subsection (3)(a) applies – in the local government’s or an authorised person’s opinion, the animal’s continued retention as evidence is no longer required; or
  - (b) if subsection (3)(b) applies – 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
  - (c) the owner or responsible person has satisfied subsections (2)(b) to (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 at 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 sections 27 or 33; or
- (b) 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.<sup>11</sup>

- (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.

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<sup>11</sup> See section 33(2)(d) (Destruction of an animal) of this local law.  
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*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
  - (b) second, towards the prescribed fee for impounding the animal; and
  - (c) third, 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(4)(c) (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.
- (7) If the local government sells, transfers or gives an animal under subsections (1)(a), (1)(b) or (6), the person who purchases or is transferred or given the animal will become the owner.

*Examples—*

- The local government may give the animal away.

- The local government may have the animal destroyed.

### **32A Civil remedy**

If a sale or disposal of an animal under section 32 does not realise a sufficient amount to pay any prescribed fee owing to the local government in relation to the animal, the local government may recover the shortfall as a debt.

## **Part 5 Destruction of animals**

### **32B Application of Part**

This part does not apply to a regulated dog.<sup>12</sup>

## **Division 1 Destruction of animals following notice**

### **33 Destruction orders**

- (1) The local government may make an order (a **destruction order**) stating the local government proposes to destroy an animal on a date which is no earlier than 10 business days after the order is given.
- (2) A destruction order may only be made in 1 or more of the following circumstances –
  - (a) the animal has attacked, threatened to attack or engaged in aggressive behaviour; or
  - (b) the animal has been seized and impounded more than 3 times within a 12 month period; or
  - (c) the animal is a declared dangerous animal; or
  - (d) the animal has not been reclaimed within 10 business days or a prescribed period specified in this local law or a subordinate local law.
- (3) The destruction order must –
  - (a) be served on a person who owns, or is a responsible person for, the animal; and
  - (b) include, or be accompanied by, an information notice.
- (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.

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<sup>12</sup> The destruction of a regulated dog is provided for in the *Animal Management (Cats and Dogs) Act 2008*.  
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- (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) the order is still in force; and
  - (c) no application has been made against the order.
- (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 1A Destruction of animals without notice**

### **33A Destruction of animals without notice**

- (1) This section applies where an authorised person has seized an animal under this local law or another law.
- (2) The authorised person may, without notice, immediately destroy the animal if –
  - (a) the authorised person reasonably believes the animal is dangerous and the authorised person cannot control it; or
  - (b) the animal is feral; or
  - (c) the animal is a prohibited animal; or
  - (d) a written request is received from the owner of the animal; or
  - (e) the animal is suffering from an incurable disease, or is so injured or emaciated that full recovery is unlikely; or
  - (f) the animal cannot be sold under section 32 (Sale or disposal of animals).

## **Division 2 Appeals against destruction orders**

### **34 Appealable decisions**

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.

### **35 Starting appeal**

- (1) An appeal must not be started unless a review of the decision to make the destruction order has been finally decided or otherwise ended.
- (2) 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.
- (3) However, the court may, at any time, extend the time for filing the notice of appeal.

- (4) The notice of appeal must state fully the grounds of the appeal and the facts relied on.

### **35A Hearing procedures**

- (1) In deciding an appeal, the Magistrates Court—
  - (a) has the same powers as the local government; and
  - (b) is not bound by the rules of evidence; and
  - (c) must comply with natural justice.
- (2) An appeal is by way of rehearing, unaffected by the decision appealed against.

### **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 decision appealed against; or
  - (b) set aside the decision and substitute another decision.
- (2) The Magistrates Court may only set aside a decision to make a 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) If the court substitutes another decision, the substituted decision is, for the purposes of this local law, other than this part, taken to be the decision of the local government.
- (4) Where the Magistrates Court sets aside 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.
- (5) Where the Magistrates Court confirms a decision to make 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.

### **37A Withdrawal of appeal**

The owner or responsible person of an animal may withdraw an appeal against a decision to make a destruction order at any time prior to the hearing of the appeal.

### **37B Appeal to District Court**

An appeal lies to a District Court from a decision of the Magistrates Court, but only on a question of law.

## **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<sup>13</sup>.
- (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

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<sup>13</sup> Any conditions specified in a subordinate local law are in addition to requirements of the *Animal Management (Cats and Dogs) Act 2008* in relation to the supply of cats and dogs.  
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- (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 8 (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 declared 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 declared dangerous animal pursuant to section (4) (Power to require owner or responsible person for a declared 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) activities that are permit regulated activities pursuant to the Schedule (Dictionary— definition of permit regulated activity) of this local law; and
- (u) the period within which an impounded animal is to be reclaimed pursuant to the Schedule (Dictionary—prescribed period) of this local law.

## **Part 8            Transition, Savings and Repeals**

### **41            Repeals**

The following Local Laws are repealed —

- (a) Local Law No. 3 (Impounding Animals) 1996, gazetted 22 March 1996;
- (b) Local Law No.4 (Keeping and Control of Animals (1998), gazetted 27 November 1998; and
- (c) 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.

### **43            Historical declaration by authorised person**

Any declaration made by an authorised person under section 18(2) before the commencement of *Local Law (Amending) Local Law No. 6 (Animal Management) 2019* is taken to be a declaration of the local government after commencement of that amending local law.

## 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 *Biosecurity Act 2014* 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.

**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 30 of *Local Law No. 1 (Administration) 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 animal<sup>14</sup>.

**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.

**destroy**, an animal, includes causing it to be destroyed.

**destruction order** see section 33(1).

**dog off-leash area** see section 12(1).

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

**effective control** see section 13(3) (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 —

- (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 23A (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

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<sup>14</sup> See the Act, section 97 for the power of a local government to fix a cost recovery fee.  
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- (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.

**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; or
- (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 Act<sup>15</sup>.

***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, camels, 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*.

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<sup>15</sup> See the Act, Section 97.  
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**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.

## Endnotes

### 1 Index to Endnotes

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

### 2 Date to which amendments incorporated

This reprint includes all amendments that commenced operation on or before 1 November 2019

### 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 –

Reprint No.	Amending Local Law	Date of commencement
1	Local Law (Amending) Local Law No.6 (Animal Management) 2019	01.11.2019

### 5 List of legislation

Original Local Law

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

date of gazettal 5 July 2013