Animals Bylaw 2017

This bylaw is made under the Local Government Act 2002 and the Health Act 1956.

1. Title

This bylaw is the **Marlborough District Council Animals Bylaw 2017**.

2. Commencement

This bylaw comes into force on 25 May 2017.

3. Application

This bylaw applies to the keeping of animals within the Marlborough District.

Part 1 - Preliminary provisions

4. Purpose

The purpose of this bylaw is to provide for the keeping of animals in a way that—

(a) protects the public from nuisance;

(b) protects native fauna;

(c) maintains and promotes public health and safety; and

(d) manages animals in public places.

5. Interpretation

(1) In this bylaw, unless the context otherwise requires,—

bird includes a domestic fowl, a duck, a goose, a turkey, a guinea-fowl, a pheasant, an emu, an ostrich, a quail, or a pigeon:

enforcement officer means an officer appointed by Council for the purposes of this bylaw:

nuisance has the meaning given in Section 29 of the Health Act 1956 and includes a person, animal, thing or circumstances causing unreasonable interference with the peace, comfort or convenience of another person whether or not that person is in a public place:

owner, in relation to any animal, means a person who has an animal in their possession or custody, or under that person's care, control or supervision, and includes the parent or guardian of a person under the age of 16 years:

(a) owns the animal; and

(b) is a member of the parent's or guardian's household living with and dependent on the parent or guardian,

but does not include any person who has seized or taken custody of an animal under the Animal Welfare Act 1999 or the National Parks Act 1980 or the Conservation Act 1987 or any order made under the Animal Welfare Act 1999:

public place means a place that is open to or is being used by the public, whether free or on payment of a charge, and whether any owner or occupier of the place is lawfully entitled to exclude or eject any person from it:

residential area means any property that is within an central business zone, urban residential zone or an urban living zone in an applicable resource management plan made under the Resource Management Act 1991 except that it does not include any property that is more than 4000 square metres in area:

farm animal includes one cattle, a deer, a llama, an alpaca, a horse, a donkey, a mule, more than 2 sheep, and more than 2 goats:

(2) Unless the context requires another meaning, a term or expression that is defined in the Act and used, but not defined, in this bylaw has the meaning given by the Health Act 1956 or the Local Government Act 2002, whichever the case may be.

Part 2 - General requirements

6. Obligations of animal owners, generally

(1) The owner or person in charge of any animal must at all times–

(a) ensure that animal does not cause a nuisance to any other person; and

(b) ensure that animal does not cause a risk to public health and safety; and

(c) ensure that animal does not damage any property belonging to any other person; and

(d) ensure that animal may not roam off the property on which it is kept; and

(e) hold and comply with a permit to keep cats or birds in excess of the limits in these bylaws; and

(f) otherwise comply with these bylaws in all respects.

(2) Any person who, in the opinion of an enforcement officer, fails to comply with these obligations, that person, on being required to do so by the officer, must take such measures to come into compliance including, if directed, remove the animals from the property, within a time specified by the officer.

7. Controls on animals in public places

(1) Council may set, by resolution, requirements for animals in public places, specifically—

(a) General conditions;

(b) Specified public places where additional conditions apply; and

(c) Specified public places where horse keeping, grazing or riding is prohibited.

(2) Any person who, in the opinion of an enforcement officer, fails to comply with any resolution made by Council under this bylaw, must, on being so directed by the enforcement officer, remove the animal from the public place within the time specified by the officer.

8. Restrictions on keeping cats

(1) No person may keep on any land more than four cats over the age of 3 months without the prior written permission of Council.

(2) Nothing in this bylaw applies to the SPCA or other animal shelter or a lawfully established veterinary clinic or cattery.

9. Restrictions on keeping birds

(1) No person may keep any rooster in a residential area.

(2) No person may keep more than 12 birds in a residential area without the prior written permission of Council.

10. Restrictions on keeping pigs

No person may keep any pigs in a residential area.

11. Restrictions on keeping farm animals

No person may keep any farm animals in a residential area without the prior written permission of Council.

12. Restrictions on keeping bees

(1) No person may keep bees—

(a) If the apiary or the beekeeper is not registered under the Biosecurity Act 1993 and the Biosecurity (National American Foulbrood Pest Management Plan) Order 1998; or

(b) which constitute a danger, nuisance, or annoyance to the occupiers of adjoining premises, or to the public, or a danger to health.

(2) The Council may nominate an organisation from time to time to administer the complaints received by the Council regarding beekeeping in the District. Such administration of complaints shall be with the sole purpose of removing any danger, nuisance, annoyance or danger to health caused by the keeping of bees.

(3) The Council may impose any conditions it thinks fit for the keeping of bees, and require the removal of some or all of the bees from any premises.

Part 3 - Administration, Enforcement & Miscellaneous matters

13. Council permission

(1) Any person who seeks permission of Council under these bylaws must;

(a) Apply in writing providing the information required by Council;

(b) Permit Council to inspect the property where the animals are to be kept; and

(c) Pay the fee set for the application and inspection.

(2) Council may grant or refuse to grant permission.

(3) The permission may be granted on such terms and conditions as Council thinks appropriate including a term after which the permission will expire.

(4) Council may revoke the permission if Council considers the animals are—

(a) Being kept in breach of the permission;

(b) Causing a nuisance;

(c) Offensive or objectionable;

(d) Causing a danger to health.

(5) Where a permission has been revoked, the person to whom the permission had been granted must remove all of the animals the permission related to from the property within the time specified by Council.

(6) Where a person fails to comply with bylaw 13(5), Council may enter the property, remove the animals and charge the person to whom the permission had been granted the costs of doing so.

14. Fees

(1) Council may, by resolution, publicly notified, fix fees for an application for a permission and for property inspections under this bylaw.

(2) The fees may be reviewed and amended from time to time.

(3) Council may set different fees for different activities, locations, or types of animal.

15. Offences & penalties

It is an offence to breach these bylaws with a penalty, on conviction, of a fine not exceeding $20,000 under the Local Government Act 2002 or $500 and $50 for each day the offence continues under the Health Act 1956.

16. Consequences of breach of bylaws

(1) Council may enter any land or premises and inspect the land or premises for compliance with these bylaws.

(2) Council may—

(a) Remove or alter a work or thing that is, or has been, constructed in breach of a bylaw; and

(b) Recover the costs of removal or alteration from the person who committed the breach.

17. Bylaws not to limit or affect other enactments

This bylaw does not limit or affect the requirements in or under any other enactment.

Part 4 - Revocation & Savings

18. Revocation

Chapter 7 of the Marlborough District Council General Bylaws 2010 is revoked.

19. Savings

Any permissions, approvals or other authorisations given under Chapter 7 of the Marlborough District Council General Bylaws 2010 continue in force in accordance with their terms.

Explanatory Notes

Without limiting the meaning of the term nuisance, section 29 of the Health Act 1956 states, as at 1 July 2016, that a nuisance shall be deemed to be created in any of the following cases, that is to say:

(a) where any accumulation or deposit is in such a state or is so situated as to be offensive or likely to be injurious to health;

(b) where any premises, including any accumulation or deposit thereon, are in such a state as to harbour or to be likely to harbour rats or other vermin;

(c) where any premises are so situated, or are in such a state, as to be offensive or likely to be injurious to health;

(d) where any buildings or premises used for the keeping of animals are so constructed, situated, used, or kept, or are in such a condition, as to be offensive or likely to be injurious to health;

(e) where any animal, or any carcass or part of a carcass, is so kept or allowed to remain as to be offensive or likely to be injurious to health;

(f) where any noise or vibration occurs in or is emitted from any building, premises, or land (from an animal) to a degree that is likely to be injurious to health;

(g) where there exists on any land or premises any condition giving rise or capable of giving rise to the breeding of flies or mosquitoes or suitable for the breeding of other insects, or of mites or ticks, which are capable of causing or transmitting disease.