

Ipswich

City Council

Draft

Local Law (Amending) Local Law No. 6 (Animal
Management) 2019

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Part 1 Preliminary

1 Short title

This local law may be cited as *Local Law (Amending) Local Law No. 6 (Animal Management) 2019*.

2 Commencement

This local law commences on the date notice of the making of the local law is published in the gazette.

3 Local laws amended

This local law amends *Local Law No. 6 (Animal Management) 2013*.

Part 2 Amendment of Local Law No. 6 (Animal Management) 2013

4 Replacement of s 2 (Object)

(1) Section 2 –

omit, insert –

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;¹ and
 - (e) the seizure and destruction of animals in certain circumstances; and
 - (f) the establishment and administration of animal pounds.

5 Amendment of s 4 (Relationship with other laws)

Section 4 –

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.

omit, insert –

This local law is—

- (a) in addition to and does not derogate from laws regulating² –
 - (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) any other local law or subordinate local law made by the local government; and
- (b) to be read with *Local Law No. 1 (Administration) 2013* and *Local Law No. 4 (Permits) 2013*.

6 Amendment of s 5 (Requirement for a permit)

Section 5, subsection (3) –

omit.

7 Amendment of s 6 (Requirement to register and identify)

Section 6(2), subsections (c) to (e) –

renumber as subsections (b) to (d), respectively

8 Amendment of s 7 (identification of registered cats and dogs)

² 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.

- (1) Section 7, heading, 'cats and dogs' –

omit, insert –

animals

- (2) Section 7, footnote 5, 'cat or' –

omit.

9 Amendment of s 8 (Minimum standards)

- (1) Section 8(1), 'undertaking of the activity of animal keeping' –

omit, insert –

keeping of animals or a particular species or breed of animal

- (2) Section 8(2), 'undertakes the activity of animal keeping' –

omit, insert –

keeps an animal

- (3) Section 8(3), 'If the animal keeping activity is also' –

omit, insert –

If the keeping of an animal is prescribed by subordinate local law to be

- (4) Section 8(4), after 'compliance notice' –

insert footnote –

See section 30 of *Local Law No. 1 (Administration) 2013* in relation to compliance notices.

10 Amendment of s 12 (Off-leash areas)

- (1) Section 12, heading –

omit, insert –

Dog off-leash areas

- (2) Section 12(1), 'an animal, or an animal of a particular species or breed,' –

omit, insert –

a dog

- (3) Section 12(1), before '**off-leash**' –

insert –

dog

- (4) Section 12(2), before 'off-leash' –

insert –

dog

- (5) Section 12(3), 'the off-leash' –

insert –

the dog off-leash

11 Amendment of s 13 (Animal to be under effective control)

- (1) Section 13, subsection (1) –

omit.

- (2) Section 13, after subsection (3) –

insert –

- (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.
- (3) Section 13, subsections (2) and (3) –
renumber as subsections (1) and (2), respectively.

12 Insertion of new s 15A

Before section 16 –

insert –

15A Limited application of division to dogs

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

13 Amendment of s 16 (Animal attacks)

- (1) Section 16, subsection (1) –
omit.
- (2) Section 16(4), definition *allow or encourage, 'cause,'* –
omit, insert –

cause

- (3) Section 16(4) –

insert –

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

- (4) Section 16, subsections (2) to (4) –

renumber as subsections (1) to (3), respectively.

14 Amendment of s 17 (Defences for offences against section 16)

Section 17, subsection (b) –

omit, insert –

- (b) to protect the responsible person or a person accompanying the responsible person (**accompanying person**) or the responsible person or accompanying person's property.

15 Amendment of s 18 (Declaration of dangerous animal other than a dog)

- (1) Section 18, subsection (1), 'A local government' –

omit, insert –

The local government

- (2) Section 18, subsection (1), 'for an authorised person' –

omit.

- (3) Section 18, subsection (2), 'An authorised person' –

omit, insert –

The local government

- (4) Section 18, after subsection (3) –

insert –

- (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).

16 Amendment of s 19 (Power to require owner or responsible person for a dangerous animal to take specified action)

- (1) Section 19, heading, before 'dangerous animal' –

insert –

declared

- (2) Section 19(1), subsection (b), 'secure custody' –

omit, insert –

an enclosure approved by an authorised person

17 Omission of pt 3, div 5 (Removal of animals)

Part 3, Division 5 –

omit.

18 Amendment of s 21 (Seizure of an animal)

- (1) Section 21, subsections (1) to (2) –

omit, insert –

- (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; or
 - (f) the animal is not, in the authorised person’s opinion, under effective control; or
 - (g) the animal is a declared dangerous animal.
- (2) Section 21(3), ‘The local government’ –

omit, insert –

An authorised person

- (3) Section 21, subsections (4) and (5) –

omit.

- (4) Section 21(6), from 'subsection' to '(5)–

omit, insert –

this section

- (5) Section 21, subsection (6) –

renumber as subsection (4)

19 Amendment of s 22 (Immediate return of an animal found wandering)

- (1) Section 22(1)(b), from '.' –

omit, insert –

; and

- (c) the animal is not a prohibited animal.

20 Insertion of new s 23A

After section 23 –

insert –

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.

21 Amendment of s 24 (Dealing with animal seized and impounded for wandering)

- (1) Section 24, subsection (1) –

omit.

- (2) Section 24(2), after subsection (b) –

insert –

- (c) the animal is not a prohibited animal; and

- (3) Section 24(2), subsection (c) –

renumber as subsection (d)

- (4) Section 24, subsections (2) to (4) –

renumber as subsections (1) to (3), respectively

22 Amendment of s 25 (Dealing with animal seized and impounded for non-compliance with local law)

- (1) Section 25(1), after 'under section' –

omit, insert –

21(2)(b) (Seizure of an animal).

- (2) Section 25(2), subsection (b), 'Part 6' –

omit, insert –

Part 5

23 Amendment of s 26 (Dealing with animal seized and impounded for attacking etc. a person or another animal)

(1) Section 26(1), after 'where' –

omit, insert –

–

- (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) Section 26(2), from '24(1)' –

omit, insert –

23A (What is an impoundment notice).

24 Insertion of new s 26A

After section 26 –

insert –

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.

25 Amendment of s 27 (Reclaiming an impounded animal)

- (1) Section 27(3), subsection (b), after `;` –

insert –

or

- (2) Section 27(4) –

omit, insert –

- (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).

26 Amendment of s 29 (Access to impounded animal)

Section 29(2), after `it` –

insert –

at

27 Amendment of s 31 (Application of this division)

- (1) Section 31, subsections (a) to (e) –

omit, insert –

- (a) an impounded animal has not been reclaimed within the prescribed period under sections 27 or 33; or

- (2) Section 31, subsection (f) –

renumber as subsection (b)

28 Amendment of s 32 (Sale or disposal of animals)

- (1) Section 32(4), subsection (c) –

omit.

- (2) Section 32(5), '32(3)' –

omit, insert –

32(4)(c)

- (3) Section 32, after subsection (6) –

insert –

- (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.

29 Insertion of new s 32A

After section 32 –

insert –

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.

30 Amendment of pt 5, div 1, hdg (Destruction of animals)

Part 5, Division 1, heading, after 'animals' –

insert –

following notice

31 Insertion of new s 32B

After Part 5, heading –

insert –

32B Application of Division

This division does not apply to a regulated dog.³

32 Amendment of s 33 (Destruction of animals)

(1) Section 33, heading –

omit, insert –

Destruction orders

(2) Section 33, subsections (1) to (3) –

omit, insert –

³ The destruction of a regulated dog is provided for in the *Animal Management (Cats and Dogs) Act 2008*.

- (1) This section does not apply to a regulated dog under the *Animal Management (Cats and Dogs) Act 2008*.
 - (2) 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.
 - (3) 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 months 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.
 - (4) 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.
- (3) Section 33(5), after subsection (a) –
- omit, insert –*
- (b) the order is still in force; and

(c) no application has been made against the order.

(4) Section 33, subsections (4) to (6) –

renumber as subsections (5) to (7), respectively.

33 Insertion of new pt 5, div 1A

After section 33 –

insert–

Division 1A Destruction of animals without notice

33A Destruction of animals without notice

- (1) This section does not apply to a regulated dog under the *Animal Management (Cats and Dogs) Act 2008*.
- (2) This section applies where an authorised person has seized an animal under this local law or another law.
- (3) 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
 - (c) the animal is feral; or
 - (d) the animal is a prohibited animal; or
 - (e) a written request is received from the owner of the animal; or

- (f) the animal is suffering from an incurable disease, or is so injured or emaciated that full recovery is unlikely; or
- (g) the animal cannot be sold under section 32 (Sale or disposal of animals).

34 Amendment of s 34 (Appealable decisions)

Section 34 –

omit, insert –

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 Amendment of s 35 (Starting appeal)

- (1) Section 35, subsection (1) –

omit.

- (2) Section 35, after subsection (3) –

insert –

- (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.

- (3) Section 35, subsections (2) and (3) –

renumber as subsections (1) and (2).

36 Insertion of new s 35A

After section 35 –

insert –

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.

37 Amendment of s 37 (Powers of Court on appeal)

- (1) Section 37(1), subsections (a) and (b) –

omit, insert –

- (a) confirm the decision appealed against; or
 - (b) set aside the decision and substitute another decision.
- (2) Section 37(2), 'quash the destruction order' –

omit, insert –

set aside a decision to make a destruction order

- (3) Section 37, after subsection (2) –

insert –

- (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) Section 37(3), 'quashes' –

omit, insert –

sets aside

- (5) Section 37(4), after 'confirms' –

insert –

a decision to make

- (6) Section 37, subsections (3) to (4) –

renumber as subsections (4) and (5), respectively

38 Insertion of new s 37A

After section 37 –

insert –

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.

39 Insertion of new s 37B

Before Part 6 –

insert –

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.

40 Amendment of s 38 (Sale of animals)

Section 38, after 'for sale.' –

insert footnote –

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.

41 Amendment of s 40 (Subordinate local laws)

(1) Section 40, subsection (e), 'section 9' –

omit, insert –

section 8

(2) Section 40, subsection (k), before 'dangerous animal pursuant' –

insert –

declared

(3) Section 40, subsection (l), before 'dangerous animal pursuant' –

insert –

declared

- (4) Section 40, subsection (l), before 'dangerous animal to take' –

insert –

declared

- (5) Section 40, subsection (t) –

omit.

- (6) Section 40, subsection (v), ' and; -

omit, insert –

.

- (7) Section 40, subsection (w) –

omit.

- (8) Section 40, subsections (u) to (w) –

renumber as subsections (t) to (v), respectively

42 Insertion of new s 43

Before Schedule –

insert –

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.

43 Amendment of Schedule (Dictionary)

(1) Schedule –

insert –

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

destruction order see section 33(1).

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

(2) Schedule, definition *animal*, `Apiary Act 1982 –

omit, insert –

Biosecurity Act 2014

(3) Schedule, definition *approved form* –

omit.

(4) Schedule, definition compliance notice, subsection (a) –

omit, insert –

(a) section 30 of *Local Law No. 1 (Administration) 2013*; or

(5) Schedule, definition *dangerous animal* –

omit.

- (6) Schedule, definition *effective control*, 'section 13(1)' –

omit, insert –

section 13(3)

- (7) Schedule, definition *impoundment notice*, '24(1)' –

omit, insert –

23A

- (8) Schedule, definition *off-leash area* –

omit.

- (9) Schedule, definition *permit regulated activity*, subsection (b), from 'the operation of which' to 'a nuisance' –

omit.

- (10) Schedule, definition *stock*, after 'buffalo,' –

insert –

camels,

- (11) Schedule, definition *worry* –

omit.