

# **GOLD COAST CITY COUNCIL**



## **LOCAL LAW No 12**

**(KEEPING AND CONTROL OF ANIMALS)**

**GOLD COAST CITY COUNCIL  
LOCAL LAW NO.12  
(KEEPING AND CONTROL OF ANIMALS) LAW**

**TABLE OF CONTENTS**

**PART 1 - PRELIMINARY**

1	Citation.....	1
2	Objects .....	1
3	Definitions .....	1
4	Meaning of “effective control” .....	3
5	Relationship with other laws and exemptions .....	3

**PART 2 - KEEPING OF ANIMALS**

*Division 1 - Animals for which permit is required*

6	Requirement to hold permit .....	4
7	Obligation to hold permit.....	4

*Division 2 - Animals for which registration is required*

8	Requirement to register animal.....	4
9	Obligation to register.....	4

*Division 3 - Animals which may not be kept*

10	Prohibition of certain animals.....	5
----	-------------------------------------	---

*Division 4 - Commercial operations*

11	Pet shops, catteries and kennels.....	5
12	Obligation to comply with permit .....	5

*Division 5 - Minimum standards*

13	Prescription of minimum standards by local law policy .....	6
14	Obligation to comply with minimum standards .....	6

*Division 6 - Permits*

15	Criteria for granting permits .....	6
16	Conditions of permits.....	7
17	Term of permit.....	8

*Division 7 - Removal of Illegally Kept Animals*

18	Notice to remove animals .....	8
----	--------------------------------	---

**PART 3 - CONTROL OF ANIMALS**

*Division 1 - Animals in public places - general*

19	Animal to be under effective control.....	8
20	Person in charge of animal must clean up animal faeces .....	9

*Division 2 - Animals in public places - parks, reserves, foreshores and beaches*

21	Prohibition or regulation of certain animals upon parks, reserves, foreshores and beaches	9
----	---	---

*Division 3 - Duty to provide proper enclosure*

22	Duty to provide proper enclosure .....	9
----	--	---

*Division 4 - Nuisances etc*

23 Duty to avoid nuisances ..... 10

*Division 5 - Aggressive dogs*

24 Dog attacks ..... 12  
25 Declared dangerous dogs ..... 12  
26 Power to seize and destroy dangerous dog ..... 13  
27 Dangerous dogs to be muzzled ..... 14  
28 Guard dogs ..... 14

**PART 4 - IMPOUNDING OF ANIMALS**

*Division 1 - Animal Pounds*

29 Establishment of pound ..... 15  
30 Operations of animal pound ..... 15  
31 Register of impounded animals ..... 15

*Division 2 - Seizure and Impounding of Animals*

32 Seizure and impounding of animals ..... 16  
33 Powers to assist seizure and impounding ..... 16  
34 Animal Unable to be Seized ..... 16

*Division 3 - Dealing with Impounded Animals*

35 Notice of impounding ..... 17  
36 Sale and disposal of impounded animals ..... 18

**PART 5 - DESTRUCTION OF ANIMALS**

37 Power to impound instead of destroy ..... 19  
38 Destruction orders ..... 19  
39 Appeal against destruction order ..... 19  
40 Powers of court on appeal ..... 19  
41 Summary destruction of animal ..... 20  
42 Destruction at request of keeper ..... 20

**PART 6 - MISCELLANEOUS**

43 Sale of animals ..... 21  
44 Prohibition of identifying tags designed to confuse ..... 21  
45 Prohibition on removing identifying tag ..... 21  
46 Prohibition on altering or defacing identifying tag ..... 21  
47 Prohibition on affixing in correct identifying tag ..... 21  
48 Prohibition on using altered or defaced identifying tag ..... 21  
49 Prohibition on rescuing seized and/or impounded animal ..... 22  
50 Prohibition on obstructing or impeding seizure by authorised officer ..... 22  
51 Prohibition on releasing animal from land on which it is kept ..... 22  
52 Abandonment of animals ..... 22  
53 Local law policies ..... 22

**GOLD COAST CITY COUNCIL  
LOCAL LAW NO. 12  
(KEEPING AND CONTROL OF ANIMALS)**

**PART 1 - PRELIMINARY**

**Citation**

1. This local law may be cited as the Local Law No.12 (Keeping and Control of Animals) Law.

**Objects**

2. The objects of this local law are to regulate the keeping of animals
  - (1) to protect the community against risk of injury and damage; and
  - (2) to ensure that animals do not create a nuisance, or a hazard to health or safety; and
  - (3) to prevent pollution and other environmental damage resulting from the keeping of animals and to protect the amenity of the local environment; and
  - (4) to ensure that animals are kept and used in a way that is consistent with the rights and expectations of the local community.

**Definitions**

3. In this law:-

“**animal**” includes any live member of a species, including any mammal, reptile, amphibian, bird and fish but does not include an animal of a species excluded by local law policy from the application of this law;

“**animal entertainment park**“ means a public place which includes, as part of its entertainment, the exhibiting of animals for the amusement and/or entertainment of the public;

“**animal sanctuary**“ means a park, reserve or other place used for the preservation, protection or rehabilitation of animals;

“**attack**” means the act of an animal holding any part of a person, animal, or thing in its mouth whether or not the holding is accompanied by shaking, pulling, or pushing and whether or not such person, animal or thing suffers any injury;

“**authorised person**” means a person authorised by the local government to exercise the powers of an authorised person under this local law.

“**cattery**” means a place used or intended for use for the keeping, boarding or breeding of more than three (3) cats;

**“dangerous dog”** means a dog declared under section 25(1). For the purposes of section 26(2) and section 697 of the Act only, a dog mentioned in section 26(2) is also a **“dangerous dog”**;

**“effective control”** - see section 4;

**“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.

**“keeper”** of an animal means -

- (a) the person who has the immediate custody and control of the animal; or
- (b) the occupier of the land on which the animal is ordinarily kept.

If a person who would otherwise be the keeper of an animal is under 18 years of age, the parent or guardian of that person is taken to be the keeper of the animal;

Where an animal is observed by an authorised person to be upon any land on more than one occasion, it shall be presumed that the animal is kept on that land by the occupier of that land.

**“kennel”** means any place used or intended for use for the keeping, boarding, breeding or training of more than three (3) dogs;

**“pet shop”** means a shop or flea market at which animals are offered for sale;

**“public place”** means any place that the public is entitled to use, is open to the public, or used by the public, whether or not on payment of money;

**“remove”** (an animal) means to cause the animal to be destroyed or permanently removed from the Area;

**“worry”** means to rush at or approach a person, animal or thing in such a manner as to cause or give cause for fear or alarm, whether or not the animal actually contacts, bites, or worries the person, animal or thing;

**“wandering at large”** means:-

- (a) wandering or being on a public place while not being under effective control; or
- (b) wandering or being on any other land (other than land upon which the animal is ordinarily kept) while not being under effective control.

#### **Meaning of “effective control”**

4. For the purposes this law:-

- (1) a dog is under **“effective control”** only if:-

- (a) a person who is physically able to control the dog is holding the dog by a leash or chain not more than 2 metres long and, if the dog is a greyhound, it is securely muzzled to prevent it from biting; or
  - (b) the dog is confined or tethered in or on premises or a vehicle so as to be:-
    - (i) unable to leave the premises or vehicle; and
    - (ii) unable to attack or worry a person or animal from the premises or vehicle;
  - (c) the dog is participating in an obedience trial, or training for an obedience trial, under the supervision of an organisation recognised by the local government for the purposes of this section; or
  - (d) the dog is being exhibited at an exhibition under the supervision of an organisation recognised by the local government for the purposes of this section;
- (2) another animal is under **“effective control”** only if a person is able to effectively control and direct the animal so as to ensure that it does not:-
- (a) attack or worry a person; or
  - (b) damage property; or
  - (c) enter other land (unless the owner or occupier of that land consents to the entry).

### **Relationship with other laws and exemptions**

5. (1) This local law is in addition to, and does not derogate from:-
- (a) laws regulating the use or development of land; and
  - (b) other laws about the keeping or control of animals or animals of a particular species.
- (2) This local law does not apply to the keeping and control of animals (other than guard dogs) kept within an animal amusement park or animal sanctuary.

## **PART 2 - KEEPING OF ANIMALS**

### *Division 1 - Animals for which permit is required*

#### **Requirement to hold permit**

6. (1) A local law policy may require a permit for the keeping of animals.

*Gold Coast City Council  
Local Law No 12 (Keeping and Control of Animals)*

- (2) The requirement for a permit may be imposed by reference to 1 or more of the following factors-
- (a) the species, breed, age or sex of the animals;
  - (b) the number of animals to be kept;
  - (c) the area, or part of the area, in which the animals are to be kept;
  - (d) the nature of the premises in which the animals are to be kept;
  - (e) the purpose of which the animals are to be kept.

**Obligation to hold permit**

7.

- (1) A person must not keep an animal for which a permit is required unless the person holds a current permit from the local government authorising the person to keep the animal.

Maximum penalty: 20 penalty units.

- (2) A person must not contravene a condition of a permit.

Maximum penalty: 20 penalty units.

*Division 2 - Animals for which registration is required*

**Requirement to register animal**

8. A local law policy may require the keeper of an animal of a particular species or breed to register the animal.

**Obligation to register**

9.

- (1) A person must not keep an animal for which registration is required unless the person holds a current registration receipt for the animal from the local government.

Maximum penalty: 20 penalty units.

- (2) A person who keeps a registered animal must ensure that the animal wears the identifying tag required under the local law policy.

Maximum penalty: 20 penalty units.

- (3) A local law policy may prescribe the grounds upon which the local government may grant an exception from the requirements to wear an identifying tag.

*Division 3 - Animals which may not be kept*

**Prohibition of certain animals**

- 10.
- (1) A local law policy may prohibit absolutely:-
    - (a) the keeping of an animal;
    - (b) the keeping of a particular species, breed, age or sex of an animal;
    - (c) the keeping of an animal in an identified part of the Area; and
    - (d) the keeping of more than a specified number of an animal.
  - (2) A person must not keep an animal contrary to a prohibition mentioned in subsection (1).

Maximum Penalty: 50 Penalty Units

#### *Division 4 - Commercial operations*

##### **Pet shops, catteries and kennels**

11. A person must not use land within the area as a pet shop, cattery or kennel unless the person holds a current permit from the local government authorising the use of the land for the purpose.

Maximum penalty: 50 penalty units.

##### **Obligation to comply with permit**

12. A person must not contravene a condition of a permit authorising the use of land for the purpose of a pet shop, cattery or kennel.

Maximum penalty: 50 penalty units.

#### *Division 5 - Minimum standards*

##### **Prescription of minimum standards by local law policy**

- 13.
- (1) A local law policy may prescribe minimum standards for the keeping of animals or a particular species of animal, whether or not a permit or registration is required in respect of the animal.
  - (2) The local law policy may, for example and without limitation:-
    - (a) require the regular cleaning of enclosures and the disposal of waste; and
    - (b) require adequate provision of food and water; and
    - (c) require the provision of adequate space for the animals; and

- (d) provide for the separation of enclosures in which animals are kept from places used for human habitation or the preparation of food, or from watercourses or water catchment areas; and
- (e) make other provisions for the maintenance of proper standards of cleanliness and hygiene.

### **Obligation to comply with minimum standards**

14.

- (1) A person who keeps an animal must ensure that the relevant minimum standards prescribed by the local law policy are complied with.

Maximum penalty: 50 penalty units.

- (2) If a person is required to hold a permit to keep an animal, the obligation to comply with the minimum standards prescribed by local law policy is in addition to obligations imposed by condition of the permit.

### ***Division 6 - Permits***

#### **Criteria for granting permits**

15. In deciding whether to grant a permit authorising a person to keep animals the local government may have regard to -

- (1) the physical suitability of the land for the proposed use;
- (2) the structural suitability of enclosures in which the animals are to be kept;
- (3) the likelihood of the animals causing nuisance, inconvenience, or annoyance to the occupiers of adjoining land;
- (4) the likely effect on the amenity of the surrounding area;
- (5) the likely effect on the local environment and any possible pollution or other environmental damage;
- (6) other factors that may be relevant in the circumstances of the particular case; and
- (7) such other factors as may be prescribed by local law policy.

#### **Conditions of permits**

16.

- (1) The local government may grant a permit under this law on conditions it considers appropriate.
- (2) The conditions may, for example and without limitation:-

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Local Law No 12 (Keeping and Control of Animals)*

- (a) require the holder of the permit to care for the animals in accordance with appropriate standards;
  - (b) require that the animals be kept in enclosures that comply with specified structural requirements;
  - (c) require the holder of the permit to comply with specified standards of hygiene;
  - (d) require the holder of the permit to ensure that the animals are identified in such a way so as to enable the holder of the permit to be identified;
  - (e) require the holder of the permit to ensure that the animals do not cause nuisance, inconvenience or annoyance to others;
  - (f) require the holder of the permit to take specified action to protect against possible harm to the local environment;
  - (g) require that only certain breeds, size or number of animals may be kept.
- (3) The local government may prescribe, by local law policy, conditions which will ordinarily be applied to permits granted under this local law.

**Term of permit**

17. A permit is granted for a term fixed under a local law policy.

***Division 7 - Removal of Illegally Kept Animals***

**Notice to remove animals**

- 18.
- (1) If the local government becomes aware that an animal is being kept contrary to section 7 (Obligation to hold permit), section 9 (Obligation to register), section 10 (Prohibition on certain animals), section 14 (Obligation to comply with minimum standards) or section 22 (Duty to provide proper enclosure), the local government may give a written notice to the keeper of the animal requiring the person to take relevant action to remedy the contravention.
  - (2) Subsection (1) applies whether or not any person is prosecuted for an offence.
  - (3) If a person fails to comply with a notice under subsection (1), the local government may give a further written notice to the keeper of the animal requiring the person to remove the animal.
  - (4) Failure to comply with a notice under subsection (3) is not in itself an offence but, subject (where relevant) to the provisions of the Act relating to "Performing work for owner or occupier", where the requirements of the notice given under subsection (3) are not complied with within the time allowed in the notice, the local government may enter onto the land where the animal is kept and remove the animal by seizing and impounding it.
  - (5) An animal seized and impounded pursuant to subsection (4) must be dealt with in accordance with Part 4, Division 3 of this law.

## **PART 3 - CONTROL OF ANIMALS**

### *Division 1 - Animals in public places - general*

#### **Animal to be under effective control**

19.

- (1) A person must not bring or permit an animal to be brought into a public place unless the animal is under the person's effective control.

Maximum penalty: 20 penalty units.

- (2) If an animal in a public place is not under effective control, an authorised person may seize and impound the animal.

#### **Person in charge of animal must clean up animal faeces**

20.

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

Maximum penalty: 10 penalty units.

- (2) For subsection (1), the “**person in charge**” is the person who has actual or apparent control of the animal or the person who otherwise appears to accompany the animal.

### *Division 2 - Animals in public places - parks, reserves, foreshores and beaches*

#### **Prohibition or regulation of certain animals upon parks, reserves, foreshores and beaches**

21.
  - (1) A local law policy may prohibit absolutely a person allowing an animal to be brought on to a park, reserve, foreshore or beach under the control of local government.
  - (2) A local law policy may prescribe the conditions upon which a person may bring an animal onto a park, reserve, foreshore or beach under the control of local government.
  - (3) A person must not bring an animal on to a park, reserve, foreshore or beach contrary to a prohibition mentioned in subsection (1) or a condition mentioned in subsection (2).

Maximum penalty: 20 penalty units.

### *Division 3 - Duty to provide proper enclosure*

#### **Duty to provide proper enclosure**

22.

- (1) A person who keeps an animal must:-
  - (a) construct and maintain a proper enclosure to keep the animal on the person's land and prevent the animal from wandering or escaping from the land; and

- (b) ensure that the animal is kept within the enclosure at all times.

Maximum penalty: 50 penalty units.

- (2) For the purposes of subsection (1), a proper enclosure is a fenced area as required by local law policy.
- (3) For avoidance of doubt, a local law policy mentioned in subsection (2) may treat buildings or structures (other than fences) which effectively contain an animal as forming part of a proper enclosure.
- (4) If an animal is found:-
- (a) wandering at large; or
- (b) on land which is not a public place (including land on which the animal is kept), but not within an enclosure on that land and not under a person's effective control,

the keeper of the animal is taken to have committed an offence.

Maximum penalty: 10 penalty units

- (5) Without affecting subsection (1), if a person fails to take action as required by subsection (1)(a), the local government may by notice in writing require the person to take relevant action to comply with subsection (1)(a).
- (6) If a person fails to comply with a notice under subsection (5), the local government may give a further written notice to the keeper of the animal requiring the person to remove the animal.
- (7) Failure to comply with a notice under subsection (6) is not in itself an offence but, subject (where relevant) to the provisions of the Act relating to "Performing work for owner or occupier", where the requirements of the notice given under subsection (6) are not complied with within the time allowed in the notice, the local government may enter onto the land where the animal is kept and remove the animal by seizing and impounding it.
- (8) An animal seized and impounded pursuant to subsection (7) must be dealt with in accordance with Part 4, Division 3 of this law.

#### *Division 4 - Nuisances etc*

##### **Duty to avoid nuisances**

23.

- (1) A person must not keep an animal on land if -
- (a) the animal causes a nuisance; or
- (b) the animal exposes the health or safety of others to significant risk; or

- (c) the animal creates a reasonable apprehension in the minds of others of a threat to their health or safety.
- (2) Without limiting subsection (1)(a), an animal causes a nuisance if it makes a noise which:-
- (a) occurs more than once; and
  - (b) disrupts or inhibits an activity ordinarily carried out on residential premises.

*Example for paragraph (b): barking of a dog which disrupts the holding of a conversation, disrupts the watching of television or listening to radio or recorded material or disrupts the sleep of any person.*

- (3) An authorised person may:-
- (a) On receiving three (3) complaints in writing of a contravention of subsection (1) from three (3) persons all of whom occupy separate premises in the same or adjoining street to the land the subject of the complaints; or
  - (b) On receiving fewer than three (3) complaints in writing of a contravention of subsection (1) and, having regard to the nature and location of the complainants' property, an authorised person has reasonable grounds for believing that a contravention of subsection (1) exists;

give written notice to the keeper of the animal requiring the person to take relevant action to prevent further contravention or to remove the animal.

- (4) A person must not fail to comply with a notice under subsection (3) within the time allowed in the notice.

Maximum penalty: 50 penalty units.

- (5) If a person fails to comply with a notice under subsection (3), the local government may give a further written notice to the keeper of the animal requiring the person to remove the animal.
- (6) Failure to comply with a notice under subsection (5) is not in itself an offence but, subject (where relevant) to the provisions of the Act relating to "Performing work for owner or occupier", where the requirements of the notice given under subsection (5) are not complied with within the time allowed in the notice, the local government may enter onto the land where the animal is kept and remove the animal by seizing and impounding it.
- (7) An animal seized and impounded pursuant to subsection (6) must be dealt with in accordance with Part 4, Division 3 of this law. animal seized and impounded pursuant to subsection (6) must be dealt with in accordance with Part 4, Division 3 of this law.

***Division 5 - Aggressive dogs***

**Dog attacks**

24. A person must not cause, encourage or permit a dog to attack or worry another person or an animal.

Maximum penalty: 50 penalty units.

**Declared dangerous**

25.

- (1) An authorised person may declare a dog to be a dangerous dog -
- (a) if the dog has caused serious injury to a person or animal by biting, attacking, worrying, rushing at or chasing that person or animal; or
  - (b) if the dog is likely to cause injury to a person or animal by biting, attacking, worrying, rushing at or chasing that person or animal; or
  - (c) if the dog has been trained to attack people or animals for the purpose of guarding either persons or property, or is kept as a guard dog for the purpose of guarding non-residential premises; or
  - (d) if the dog has been declared a dangerous dog by another local government; or
  - (e) for any other reason prescribed by local law policy.
- (2) Where a dog has been declared dangerous under subsection (1), the authorised person may order the keeper of the dog to take specified action as required by local law policy such as (for example and without limitation):-
- (a) to warn persons who enter land on which the dog is kept of the presence of a dangerous dog on the land; and
  - (b) to ensure that the dog remains in secure custody and is unable to cause injury or damage to persons or other animals.
- (3) A person must not fail to comply with an order under subsection (2).

Maximum penalty: 50 penalty units.

- (4) In addition, where a dog has been declared dangerous under subsection (1) and the local government has made a registration fee for dangerous dogs which is different from the registration fee for dogs which are not dangerous dogs, the keeper of the dog must within the time notified to the keeper in writing by the local government pay the additional amount of the registration fee for a dangerous dog (apportioned pro rata to the period between the date of declaration and the end of the period for which the fee is paid).

*Example: Assume that the standard registration fee for a dog is \$50.00 per annum and that the registration fee for a dangerous dog is \$250.00 per annum. The fee is paid for*

*a period from 1 July to 30 June. If a dog is declared dangerous on 1 November, the keeper must pay an additional \$133.33 being the additional amount of the fee for a dangerous dog (\$200.00) applied pro rata to the 8 month period between 1 November and the next 30 June. The figures given are used for illustration only. The actual fees are set by the local government from time to time.*

### **Power to seize and destroy dangerous dog**

26.

- (1) An authorised person may seize and destroy a dangerous dog if:-
  - (a) the dog is found wandering at large; or
  - (b) an order under section 25(2) in respect of the dog is not complied with; or
  - (c) an additional registration fee is not paid within the time required under section 25(4).
- (2) An authorised person may also seize and destroy a dog (whether or not it is declared as a dangerous dog) if it:-
  - (a) attacks a person or animal; or
  - (b) causes injury or damage; or
  - (c) creates a serious risk of injury or damage.
- (3) An authorised person may enter a place (including a building or other structure, or the part of a building or other structure, used for residential purposes at the time), with the help and using the force that is necessary and reasonable in the circumstances to seize the dog.
- (4) An authorised person has the specific authority required under the Act for entering a place if-
  - (a) the authorised person is appointed under section 676 of the Act; and
  - (b) the appointment states that the authorised person is appointed for section 697 of the Act.

### **Dangerous dogs to be muzzled**

27.

- (1) A person must not bring a dangerous dog into a public place unless the dog is securely muzzled to prevent it from biting.  
  
Maximum penalty: 50 penalty units.
- (2) If an unmuzzled dangerous dog is in a public place, an authorised person may seize and destroy the dog.

### **Guard dogs**

28.

- (1) This section applies to land:-
  - (a) which is not used for residential purposes and is not a kennel or a pet shop; and
  - (b) on which a dog is kept at any time for the purpose or apparent purpose of acting as a deterrent to intruders.
- (2) The occupier of land to which this section applies must take action specified in a local law policy to:-
  - (a) warn persons about the presence of the dog on the land; and
  - (b) ensure that the dog is under effective control at all times when the land is open to access by the public.
- (3) Subsection (2) applies whether or not the occupier is the keeper of the dog.

*Example: Some premises have guard dogs which are supplied by a security business or kennel, are regularly rotated or replaced by the supplier and in respect of which the occupier of the premises takes no responsibility for care of the dogs. The occupier of such premises may not be the “keeper” of the dog as defined but that does not affect the owner’s responsibility to comply with subsection (2).*

- (4) A person must not fail to take action as required by subsection (2).

Maximum Penalty: 50 Penalty Units

- (5) Without affecting subsection (4), if a person fails to take action as required by subsection (2), the local government may by notice in writing require the occupier of the land to remove the dog from the land.
- (6) Subject to section 661 of the Act, if a person fails to comply with a notice under subsection (5) within the time allowed in the notice (and has still not taken action as required by subsection (2)), the local government may enter onto the land where the dog is kept and remove the dog by seizing and destroying it.
- (7) For avoidance of doubt, this section is in addition to section 25 and does not prevent a dog to which it applies being declared as a dangerous dog under section 25.

## **PART 4 - IMPOUNDING OF ANIMALS**

### *Division 1 - Animal Pounds*

#### **Establishment of pound**

29. The local government may -

- (1) establish an animal pound; or
- (2) join with another local government in establishing an animal pound.

### **Operations of animal pound**

30. The local government may, by local law policy -
- (1) fix the times when the animal pound will be open for the reception and release of animals; and
  - (2) fix the types of animal (if any) which will be accepted at the pound otherwise than pursuant to an impounding under this law; and
  - (3) fix the times for the sale of animals from the pound; and
  - (4) fix a scale of fees to be paid for matters relating to the impounding of animals including, without limitation, the impounding, sustenance, release, sale and disposal of impounded animals.

### **Register of impounded animals**

- 31.
- (1) The local government must ensure that a proper record of impounded animals (the "Register of Impounded Animals") is kept.
  - (2) The Register must contain the following information about each impounded animal-
    - (a) the species, breed and sex of the animal; and
    - (b) the brand, colour, distinguishing markings and features of the animal; and
    - (c) if applicable - the registration number of the animal; and
    - (d) if known - the name and address of the keeper; and
    - (e) the date and time of seizure and impounding; and
    - (f) the name of the authorised person who impounded the animal; and
    - (g) the reason of the impounding; and
    - (h) if applicable - the details of all fees and charges claimed in relation to the impounding; and
    - (i) a note of any order made by an authorised person relating to the animal; and
    - (j) the date of the sale, release, destruction or disposal of the animal.
  - (3) The Register must be kept available for public inspection at the pound.

### ***Division 2 - Seizure and Impounding of Animals***

### **Seizure and impounding of animals**

32.

- (1) An authorised person may seize and impound an animal found wandering at large in a public place.
- (2) An authorised person may, at the request of the occupier of land, seize and impound any animal found on the occupier's land.
- (3) The occupier of land may seize an animal found wandering on the occupier's land and deliver the animal to an authorised person to be impounded.
- (4) However, an authorised person is not obliged to accept the custody of an animal under this section.

### **Powers to assist seizure and impounding**

33. For the purposes of seizing an animal and for any purpose relating to its impounding, an authorised person may use any reasonable method of capturing, controlling or sedating the animal, including the use of mechanical devices and tranquillising devices.

### **Animal Unable to be seized**

34. If an authorised person forms the view that an animal which may be seized under this law is, by reason of its size and/or behaviour, unable to be seized using means reasonably available to the authorised person (including those mentioned in section 33) without undue risk to the safety of the authorised person or other persons, the authorised person may destroy the animal instead of seizing it.

## ***Division 3 - Dealing with Impounded Animals***

### **Notice of impounding**

- 35.
- (1) If an animal is impounded and the authorised person who impounds the animal knows, or can readily find out, the name and address of the keeper of the animal, the authorised person must:-
    - (a) if the keeper of the animal is able to be contacted by telephone, advise the keeper by telephone of the impounding and state that the animal may be reclaimed by payment of the fees prescribed from time to time by local government resolution; or
    - (b) if the keeper of the animal is unable to be contacted by telephone immediately or within 24 hours of the impounding, give the keeper written notice of the impounding stating that the animal may be reclaimed by payment of the fees prescribed from time to time by local government resolution.
  - (2) If the keeper reclaims the animal and pays the relevant fees within the time allowed in the notice, the animal must be returned to the keeper.
  - (3) However, if:-
    - (a) a permit is required for the keeping of the animal but the keeper does not have the necessary permit; or

- (b) the animal (not being a dog) is required to be registered but is not registered; or
- (c) particular works or facilities are required by this law or a local law policy to be constructed or provided on the land on which the animal is kept or will be kept but those works or facilities are not constructed or provided,

the authorised person must give the keeper written notice of the requirement to obtain the necessary permit, register the animal or, as the case requires, construct or provide the required works or facilities and the animal must not be returned until the keeper obtains the necessary permit, registers the animal or, as the case requires, constructs or provides the required works or facilities.

- (4) Further, despite subsection (2), an animal must not be returned to the keeper if the keeping of the animal contravenes this law.

*Examples: An animal the keeping of which is prohibited under section 10; an animal which if returned will result in the number of animals kept on the land exceeding the maximum prescribed in a permit condition.*

- (5) If an animal has not been returned to the keeper after the expiry of a period of five (5) working days after the giving of the written notice referred to in subsection (3) or an animal has not been returned to the keeper as a consequence of subsection (4), then an authorised person may seize and destroy the animal.

### **Sale and disposal of impounded animals**

36.

- (1) If an animal has not been reclaimed within a period fixed by local law policy, the local government may:-
  - (a) offer the animal for sale by public auction; or
  - (b) if the animal is of a type or class specified in a local law policy made for the purposes of this section, sell destroy or otherwise dispose of the animal.
- (2) Notice of the date and time of an auction of impounded animals must be given at the local government's public office at least 2 days before the auction is held.
- (3) An amount realised on sale of an animal (by auction or otherwise) must be applied -
  - (a) first towards the costs of the sale; and
  - (b) secondly, towards the impounding fees;
  - (c) thirdly, to the former owner of the animal.
- (4) If the identity of the former keeper of an impounded animal is unknown to the local government, and no person establishes a valid claim to the proceeds of sale within 1 year of the date of the sale, the proceeds to which the former keeper would have been entitled under subsection (3)(c) become the absolute property of the local government.
- (5) If there is no purchaser for an animal offered for sale by auction the local government may sell (by private sale), destroy or otherwise dispose of the animal.

- (6) A sale or disposal of an animal by the local government under this section confers valid and paramount title to the animal sold or disposed of to the purchaser or disponent of the animal, as though the local government were the owner of the animal, despite a failure to comply with a provision of this law.

This subsection does not protect:-

- (a) a person who commits fraud or wilful default; or
- (b) a local government that does not comply with a provision of this part
- (c) from liability for loss caused by the fraud, default or non-compliance.

## **PART 5 - DESTRUCTION OF ANIMALS**

### **Power to impound instead of destroy**

37. In any case where this law provides that an authorised person may seize and destroy an animal, the authorised person may impound the animal instead of destroying it if, in the authorised person's opinion, its destruction is not warranted.

### **Destruction orders**

- 38.
- (1) Subject to section 37, where this law provides that an authorised person may seize and destroy an animal, the authorised person must make a destruction order after seizing the animal.
  - (2) When an authorised person makes a destruction order, the authorised person must, if the keeper of the animal is known to the authorised person, or can be ascertained from the local government's records, give written notice of the order to the keeper.

### **Appeal against destruction order**

- 39.
- (1) The keeper of an animal against which a destruction order has been made may appeal to a Magistrates Court against the order.
  - (2) The appeal must be started within 7 days after the keeper is given notice of the making of the order.
  - (3) For the purposes of subsection (2), an appeal is not started until:-
    - (a) the appeal has been filed in a Magistrates Court; and
    - (b) a copy of the appeal has been served on the local government.

### **Powers of court on appeal**

- 40.

- (1) On an appeal under section 39, the Court may confirm or quash the order for destruction of the animal.
- (2) The Court may only quash an order for destruction of an animal if satisfied that -
  - (a) the keeper will in future ensure that the animal is properly kept and controlled in accordance with this local law and the circumstances that led to the making of the order are unlikely to recur; and
  - (b) if an order for destruction of the animal has previously been revoked by the Court - there are exceptional circumstances justifying quashing the order.
- (3) If the Court quashes an order for destruction of an animal, the keeper must nevertheless pay to the local government the fees relating to its seizure and subsequent holding by the local government prescribed by local law policy prior to the local government returning the animal, unless the Court otherwise orders.
- (4) The Court may only make an order:-
  - (a) that the keeper does not have to pay fees under subsection (3); or
  - (b) against the local government in respect of the costs of an appeal,
  - (c) if the Court is satisfied that the animal was unlawfully seized or there was no lawful basis for making the order for destruction of the animal.
- (5) If the Court quashes an order for destruction of an animal but makes an order requiring the keeper to pay to the local government the fees referred to in subsection (3), the Court may also make an order that if the keeper fails or refuses to pay the fees required by subsection (3) within 14 days of the date of the Court's order, then the Court's order (quashing the local government's order for destruction) shall be vacated and the local government may immediately thereafter destroy the animal.

### **Summary destruction of animal**

41. Despite section 38, an authorised person may destroy an animal without notice to the keeper of the animal if -
  - (1) the animal has been seized and detained more than 3 times in the last year; or
  - (2) the animal is, in the authorised person's opinion, dangerous and not controllable by means that are reasonably available to the keeper of the animal; or
  - (3) the animal is diseased or emaciated.

### **Destruction at request of keeper**

42. (1) An authorised person may, at the request of the keeper of an animal, (and upon payment of any prescribed fees), seize and destroy the animal.
- (2) The local government may prescribe, by local law policy, a procedure for accepting animals seized by an authorised person pursuant to subsection (1).

## **PART 6 - MISCELLANEOUS**

### **Sale of animals**

43.

- (1) A local law policy may lay down conditions to be complied with by persons who offer animals, or a particular species of animals, for sale.
- (2) A person must not offer or display animals for sale in the area unless the person complies with conditions laid down by local law policy under subsection (1).

Maximum penalty: 20 penalty units.

### **Prohibition of identifying tags designed to confuse**

44. 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.

### **Prohibition on removing identifying tag**

45. A person, not being the keeper of an animal, or a person authorised by the keeper of an animal, must not remove an identifying tag from that animal.

Maximum penalty: 20 penalty units

### **Prohibition on altering or defacing identifying tag**

46. A person must not alter or deface an identifying tag.

Maximum penalty: 20 penalty units

### **Prohibition on affixing in correct identifying tag**

47. A person must not affix an identifying tag to an animal not being the animal to which the number inscribed on the identifying tag has been allocated.

Maximum penalty: 20 penalty units

### **Prohibition on using altered or defaced identifying tag**

48. A person must not use or cause or allow to be used any identifying tag which has been altered or defaced.

Maximum penalty: 20 penalty units

### **Prohibition on rescuing seized and/or impounded animal**

49. A person must not rescue or attempt to rescue or assist another person in rescuing or attempting to rescue an animal seized and impounded or seized for the purposes of being impounded by an authorised person pursuant to his law.

Maximum penalty: 50 penalty units

**Prohibition on obstructing or impeding seizure by authorised officer**

50. A person must not obstruct or impede the seizure of an animal by an authorised person pursuant to this law.

Maximum penalty: 50 penalty units

**Prohibition on releasing animal from land on which it is kept**

51. A person must not release or allow to be released an animal from the land upon which it is kept.

Maximum penalty: 50 penalty units

**Abandonment of animals**

52.

(1) A person must not abandon an animal.

Maximum penalty: 20 penalty units.

(2) A person who delivers an animal into the custody of the authorised person in charge of an animal pound or delivers an animal to a holding pen established at an animal pound is not to be regarded as having abandoned the animal.

**Local law policies**

53. The local government may make local law policies in relation to those matters about which this local law specifically allows for the making of local law policies.

This and the preceding 23 pages bearing my initials is a certified copy of *Gold Coast City Council Local Law No. 12 (Keeping and Control of Animals) Law*, made in accordance with the provisions of the *Local Government Act 1993* by Gold Coast City Council by resolution dated 30<sup>th</sup> October, 1998.

.....  
Chief Executive Officer