

CERTIFICATE OF VALIDITY

UNDER SECTION 249(4) OF THE LOCAL GOVERNMENT ACT 1999

I, KATE EMILY OLIVER of Norman Waterhouse Lawyers, Level 15, 45 Pirie Street, Adelaide SA 5000, being a legal practitioner within the meaning of the Legal Practitioners Act 1981, declare that I have examined the following by-law which the City of Victor Harbor intends to make, and do certify that in my opinion:


- (a) the said Council has the power to make the by-law by virtue of the following statutory provisions:

Dog and Cat Management Act 1995, Sections 90(1) and 90(3);

Local Government Act 1999, Sections 246(1)(a), 246(3)(a), 246(3)(c) and 246(3)(e);

- (b) the by-law is not in conflict with the Local Government Act 1999.

DATED the 7th day of September 2009



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Kate Emily Oliver, Legal Practitioner

CITY OF VICTOR HARBOR

*By-law made under the Local Government Act 1999 and the
Dog and Cat Management Act 1995*

By-Law No. 5 – Dogs

To limit the number of dogs kept in premises and to provide for the control of dogs on local government land.

1. Definitions

In this by-law:

- 1.1 'Dog' means a dog three months of age or older;
- 1.2 'Guide Dog' means a dog trained and used, or undergoing training to be used, for the purpose of guiding a person who is wholly or partially blind as defined in Section 4 of the Dog and Cat Management Act 1995;
- 1.3 'Hearing Dog' means a dog trained and used, or undergoing training to be used, for the purpose of assisting a person who is wholly or partially hearing disabled as defined in Section 4 of the Dog and Cat Management Act 1995;
- 1.4 'Disability Dog' means a dog trained and used, or undergoing training to be used, for the purpose of assisting a person who is wholly or partially disabled as defined in Section 4 of the Dog and Cat Management Act 1995;
- 1.5 'Premises' includes land and a part of any premises or land whether used or occupied, for domestic or non domestic purposes except an Approved Kennel Establishment;

- 1.6 'Children's Playground' means any enclosed area in which there is equipment or other installed devices for the purpose of children's play (or within 3 metres of such devices if there is no enclosed area);
- 1.7 'Small Dwelling' means the premises of a self-contained dwelling either:
 - 1.7.1 commonly known as a flat, service flat, home unit or the like;
 - 1.7.2 or a dwelling on an allotment less than 560m² in area.
- 1.8 'Public Place' means all streets, roads, parklands, reserves, open space and all other land in the ownership of the Council or under the care, control and management of the Council;
- 1.9 'Approved Kennel Establishment' means a building, structure, premises or area approved by the relevant authority, pursuant to the Development Act 1993, for the keeping of dogs on a temporary or permanent basis.
- 1.10 'Foreshore' means the area between the low water mark on the seashore and the nearest boundary of:
 - 1.10.1 a road;
 - 1.10.2 a section;
 - 1.10.3 a public reserve; or
 - 1.10.4 land comprised in a Land Grant, Crown Land or Crown Licence;
- 1.11 'Low Water Mark' means the lowest meteorological tide;
- 1.12 'The Council' means the City of Victor Harbor

2. Limit on dog numbers

A person must not, keep without Council's permission:

- 2.1 more than one dog in a small dwelling,
- 2.2 two dogs on any Premises other than a small dwelling,
- 2.3 Clause 2.1 and 2.2 does not apply if the person has the permission of the Council in writing. Such permission may be given if the Council is satisfied that:
 - 2.3.1 no insanitary conditions exist on the Premises as a result of keeping the dogs; and
 - 2.3.2 a nuisance is not caused to any other person as a result of keeping the dogs on the Premises.

3. Kennel Establishments

The limit set out in paragraph 2 of this By-law does not apply:

- 3.1 to an Approved Kennel Establishment operating in accordance with all required approvals and consents; and
- 3.2 to any business involving dogs which are registered in accordance with the Dog and Cat Management Act 1995; or

- 3.3 if the Council has exempted any Premises from compliance with paragraphs 2.1 and 2.2 of this By-Law by the granting of an exemption.

4. Dog Prohibited Areas

- 4.1 A person must not allow any dog under that persons control, charge or authority (except an accredited guide dog, hearing dog or disability dog) to be or remain:

4.1.1 on any children's playground on local government land;

4.1.2 on any other local government land or public place to which the Council has determined, from time to time, that dogs are prohibited.

5. Dogs to be on a leash

No person shall in a public place cause, suffer or permit any dog under that person's control, charge or authority to be or remain in that place unless such dog is restrained by a strong leash not exceeding 2 meters in length and either tethered securely to a fixed object or held by a person capable of controlling the dog and preventing it from being a nuisance or danger to other persons.

6. Dog Exercise areas

- 6.1 A person must not enter any part of local government land to exercise a dog under that person's control except on local government land to which this paragraph applies.

6.2 Where a person enters upon any such part of local government land for the purpose of exercising a dog under that person's control, that person must ensure that the dog or dogs remain under effective control either by means of physical restraint or by command, the dog being in close proximity to the person and the person being able to see the dog at all times while on that land.

7. Dogs on foreshore

A person must not cause, suffer or permit any dog under that person's control, charge or authority to be or remain on the foreshore unless such dog is restrained by a strong leash not exceeding 2 metres in length which is tethered securely to a fixed object or held by a person capable of controlling the dog and preventing it from being a nuisance or a danger to other persons except that a person may exercise a dog or dogs:

7.1 between the hours of 8pm and 10am on the following day during the period of daylight savings; and

7.2 between the hours of 6pm and 10am on the following day during any other period,

provided that the person ensures that the dog or dogs remain under effective control by means of physical restraint or by command, the dog being in close proximity to the person and the person being able to see the dog at all times while on the foreshore.

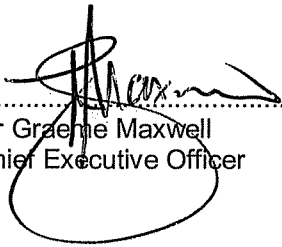
8. Signs

Signs shall be erected to denote the land to which clause 6 applies, and information shall be provided to the public in a manner determined by the Council's Chief Executive Officer to inform the public about such land.

9. Application of paragraphs

Any of the paragraphs 4, 5 or 6 of this by-law shall apply only in such portion or portions of the area as the Council may determine from time to time in accordance with section 246 (3) (e) of the Local Government Act 1999.

The foregoing by-law was duly made and passed at a meeting of the City of Victor Harbor held on the 22 day of SEPTEMBER 2009 by an absolute majority of the members for the time being constituting the Council, there being at least two thirds of the members present.


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Mr Graeme Maxwell
Chief Executive Officer