

LOCAL GOVERNMENT ACT 1995

CAT ACT 2011

SHIRE OF WAROONA



CAT LOCAL LAW 2023

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**CAT ACT 2011
LOCAL GOVERNMENT ACT 1995
SHIRE OF WAROONA**

SHIRE OF WAROONA

CAT LOCAL LAW 2023

Under the powers conferred by the Cat Act 2011, the Local Government Act 1995 and under all other powers enabling it, the Council of the Shire of Waroona resolved on <Council resolution date> to make the following local law.

PART 1 - PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Waroona Cat Local Law 2023*.

1.2 Commencement

This local law comes into operation 14 days after the date of its publication in the *Government Gazette*.

1.3 Application

This local law applies throughout the district.

1.4 Interpretations

In this local law unless the context otherwise requires -

Act means the *Cat Act 2011*;

animal welfare organisation means a non-government, not-for-profit organisation with the welfare of animals as their reason for existence;

applicant means the occupier of the premises who makes an application for a permit under this local law;

approved cat breeder has the meaning given to it in the Act;

authorised person means a Ranger or another person appointed by the CEO to perform all or any of the functions conferred on an authorised person under this local law;

cat means an animal of the species *felis catus* or a hybrid of that species;

cat management facility has the meaning given to it in the Act;

cattery means any premises where 3 or more cats are boarded, housed or trained temporarily, usually for profit, and where the occupier of the premises is not the ordinary owner of the cats;

CEO means the Chief Executive Officer of the local government;

Council means the Council of the local government;

district means the district of the local government;

effective control in relation to a cat means any of the following methods -

- (a) held by a person who is capable of controlling the cat;
- (b) secured in a cage; or

(c) any other means of preventing escape;

group dwelling (commonly referred to as a duplexes, villas or townhouses) means a dwelling that is 1 of a group of 2 or more dwellings on the same lot such that no dwelling is placed wholly or partly vertically above the other, except where special conditions of landscape or topography dictate otherwise, and includes a dwelling on a survey strata with common property;

local government means the Shire of Waroona;

local government property has the meaning expressed in section 3.35 of the *Local Government Act 1995*;

multiple dwelling (often called flats, apartments or units) meaning a dwelling in a group of more than 1 dwelling on a lot where any part of a dwelling is vertically above part of any other but -

- (a) does not include a group dwelling; and
- (b) includes any dwellings above the ground floor in a mixed use development;

nuisance means -

- (a) excretes or urinates on property where the cat does not normally reside or is registered to;
- (b) an activity or condition which is harmful or annoying and which gives rise to legal liability in the tort of public or private nuisance at law;
- (c) an unreasonable interference with the use and enjoyment of a person of his or her ownership or occupation of land;
- (d) interference which causes material damage to land or other property on the land affected by the interference;
- (e) is, or is likely to be injurious or dangerous to the health of any person, domestic animal or native fauna;

owner has the meaning given to it in the Act;

permit means a permit issued by the local government under clause 4.7;

permit holder means a person who holds a valid permit under clause 4.7;

pet shop means a shop or place used for the conduct of a business, in the course of which an animal is kept for the purposes of sale;

premises has the meaning given to it in the Act;

public place has the meaning given to it in the Act;

registered has the meaning given to it in the Act;

RSPCA means the Royal Society for the Prevention of Cruelty to Animals (Inc) of Western Australia;

Schedule means a Schedule to this local law;

scheme means a local planning scheme of the local government made by it under the *Planning and Development Act 2005* and its antecedents;

single dwelling means a house that stands alone on its own parcel of land;

veterinary hospital means any premises at which veterinary surgery is practised at which animals receive treatment, nursing care, and other services required for the reception, treatment and care of animals suffering from disease or injury or in need of surgical or medical treatment or assistance;

veterinary clinic means any premises at which veterinary surgery is practised, but at which animals are not retained overnight;

veterinary surgery means the art and science of veterinary surgery and veterinary medicine, and, without limiting the generality of the foregoing, includes -

- (a) the examination of any animal for the purpose of the diagnosis of disease in, or injury to, that animal, or the conduct of tests, whether physiological or pathological, on any animal for diagnostic purposes; and
- (b) the provision of advice based upon diagnosis of disease of, or injury to, any animal; and
- (c) the surgical or medical treatment of any animal;
- (d) the giving of any anesthetic to, or the performance of surgical operations on, any animal; and
- (e) the doing or performing of any act, matter, procedure, or thing that is prescribed pursuant to section 31 as forming part of the practice of veterinary surgery.

PART 2 - CONTROL OF CATS

2.1 Cats in public places

- (1) A cat shall not be permitted in a public place, if in the opinion of an authorised person, the cat is causing a nuisance.
- (2) If a cat is at any time in a public place in contravention of subclause (1) -
 - (a) the owner of the cat commits an offence; and
 - (b) an authorised person may seize and impound the cat and deal with the cat pursuant to the Act.

2.2 Cats in other places

- (1) A cat shall not be in any place that is not a public place if -
 - (a) consent to its being there has not been given by the occupier, or a person authorised to consent on behalf of the occupier; and/or
 - (b) the cat, in the opinion of an authorised person, is causing a nuisance.
- (2) If a cat is at any time in a place in contravention of subclause (1) -
 - (a) the owner of the cat commits an offence; and
 - (b) an authorised person may seize and impound the cat and deal with the cat pursuant to the Act.

2.3 Cat in prohibited areas

- (1) A cat shall not be in any Cat Prohibited Area as identified in Schedule 3.
- (2) If a cat is at any time in a place in contravention of subclause (1) -
 - (a) the owner of the cat commits an offence; and
 - (b) an authorised person may seize and impound the cat and deal with the cat pursuant to the Act.

2.4 Direction to abate the nuisance of a cat

- (1) The owner of a cat, or any other person responsible for a cat, shall not allow cat to create a nuisance.
- (2) where, in the opinion of an authorised person, a cat is creating a nuisance, the local government may give written notice to the owner of the cat or any other person apparently in control of the cat, requiring that person to abate the nuisance.

- (3) When a nuisance has occurred and a notice to abate the nuisance is given, the notice remains in force for the period specified by the local government on the notice or until the local government withdraws the notice.
- (4) A person given a notice to abate the nuisance shall comply with the notice within the period specified in the notice. If the owner fails to comply -
 - (a) the owner of the cat commits an offence; and
 - (b) an authorised person may seize and impound the cat and deal with the cat pursuant to the Act.

2.5 Direction to confine a cat

- (1) In the opinion of an authorised person if a cat is causing a nuisance, an authorised person may direct the owner to confine the cat to the property that it normally resides.
- (2) If the owner fails to comply -
 - (a) the owner of the cat commits an offence; and
 - (b) an authorised person may seize and impound the cat and deal with the cat pursuant to the Act.

PART 3 - CAT PROHIBITED AREAS

3.1 Designation of Cat Prohibited Areas

- (1) The Local Government may designate local government property as a Cat Prohibited Area by stating a description of the land in Schedule 3. The Local Government shall make available to the public the list of lands designated as Cat Prohibited Areas after consideration of any submissions received under subclause 5.1(3)
- (2) In designating land for the purpose of section 5.1 the Local Government shall have regard to clause 2.1.
- (3) (a) The Local Government shall not designate a place or area to be a Cat Prohibited Area without first giving Local Public Notice for a period of at least 28 days of its intention to designate a place or area as a Cat Prohibited Area and considering any submissions received in response to the Local Public Notice; and
(b) The Local Government shall publish an up to date list of lands or areas specified as Cat Prohibited Areas in a Local Public Notice after the consideration of any submissions received.

PART 4 - PERMITS FOR KEEPING CATS

4.1 Interpretation

In this Part, and for the purposes of applying the definition of "cattery" in Part 3, a **cat** does not include a cat less than 6 months old.

4.2 Cats for which a permit is required

- (1) Subject to subclause (2) a person is required to have a permit -
 - (a) to keep 3 or more cats on any premises;
 - (b) to use any premises as a cattery; or
 - (c) to be an approved cat breeder.
- (2) A permit is not required under subclause (1) if the premises concerned are -
 - (a) a refuge of the RSPCA, to which a scheme approval is valid;
 - (b) a cat management facility which has been established by and is maintained by the local government for the impounding of cats;

- (c) a veterinary hospital;
- (d) a veterinary surgery;
- (e) a veterinary clinic; or
- (f) a pet shop.

4.3 Transitional provisions

Where an owner has 3 or more currently registered cats on their premises prior to this local law coming into operation, that owner is not required to have a permit: however that owner will not substitute or replace any cat (in excess of 3 cats) once the relevant cat -

- (a) dies: or
- (b) is permanently removed from the premises.

4.4 Application for permit

- (1) An application for a permit under clause 4.2 shall be -
 - (a) made in writing by an occupier of either a single or multiple dwelling or premises in relation to that single or multiple dwelling or premises;
 - (b) in a form approved by the local government, describing and specifying the number of cats to be kept at the single or multiple dwelling or on the premises;
 - (c) accompanied by the plans of the single or multiple dwelling or premises to which the application relates, to the specification and satisfaction of the local government;
 - (d) accompanied by the consent in writing of the owner of the single or multiple dwelling or premises, where the occupier is not the owner of the single or multiple dwelling or premises to which the application relates;
 - (e) accompanied by the application fee for the permit determined by the local government from time to time; and
 - (f) accompanied by written evidence that either the applicant or another person who will have charge of the cats, will reside at the single or multiple dwelling or on the premises or, in the opinion of the local government, sufficiently close to the single or multiple dwelling or premises so as to maintain effective control of the cats and ensure their health and welfare.

4.5 Refusal to determine application

The local government may refuse to determine an application for a permit if it is not made in accordance with clause 4.4.

4.6 Factors relevant to determination of application

- (1) In determining an application for a permit the local government may have regard to -
 - (a) the physical suitability of the premises for the proposed use;
 - (b) the suitability of the zoning of the premises under any scheme which applies to the premises for the use;
 - (c) the environmental sensitivity and general nature of the location surrounding the premises for the proposed use;
 - (d) the structural suitability of any enclosure in which any cat is to be kept;
 - (e) the likelihood of a cat causing a nuisance, inconvenience or annoyance to the occupiers of adjoining land;
 - (f) the likely effect on the amenity of the surrounding area of the proposed use;
 - (g) the likely effect on the local environment, including any pollution or other environmental damage which may be caused by the use;

- (h) any submissions received under subclause (2) within the time specified in subclause (2); and
 - (i) such other factors which the local government may consider to be relevant in the circumstances of the particular case.
- (2) Where an application is received pursuant to clause 4.4 the local government shall -
- (a) consult with adjoining occupiers and landowners; and
 - (b) advise the adjoining occupiers and landowners that they may make submissions to the local government on the application for the permit within 14 days of receiving that advice, before determining the application for the permit.

4.7 Decision on application

- (1) The local government may -
 - (a) approve an application for a permit, in which case it shall approve it subject to the conditions in clause 4.8, and may approve it subject to any other conditions it considers fit; or
 - (b) refuse to approve an application for a permit.
- (2) If the local government approves an application under subclause (1), then it shall issue to the applicant a permit in the form determined by the CEO.
- (3) If the local government refuses to approve an application under subclause (1), then it is to advise the applicant accordingly in writing.

4.8 Conditions

- (1) Every permit is issued subject to the following conditions -
 - (a) each cat kept on the premises to which the permit relates shall be contained on the premises unless under the effective control of a person;
 - (b) that the premises must be adequately fenced (and premises will be taken not to be adequately fenced if there is more than one escape of a cat from the premises);
 - (c) the permit holder will provide adequate space for the exercise of the cats;
 - (d) the single or multiple dwelling or premises shall be maintained in good order and in a clean and sanitary condition;
 - (e) the written consent to the application for a permit of the adjoining multiple dwellings has been obtained;
 - (f) the written consent to the application from the owner of the premises, if not the applicant, has been obtained;
 - (g) without the consent of the local government, the permit holder will not substitute or replace any cat once that cat -
 - (i) dies; or
 - (ii) is permanently removed from the premises.
 - (h) those conditions contained in Schedule 1.
- (2) In addition to the conditions subject to which a permit is to be issued under this clause, a permit may be issued subject to other conditions, as the local government considers appropriate.
- (3) A permit holder who fails to comply with a condition of a permit commits an offence.

4.9 Duration of permit

Unless otherwise specified, in a condition on a permit, a permit commences on the date of issue and until any cat either

- (a) dies;
- (b) is permanently removed from the premises; or
- (c) the permit holder ceases to reside at the dwelling or premises to which the permit relates.

4.10 Revocation

The local government may revoke a permit if the permit holder fails to observe any provision of this local law or a condition of a permit.

4.11 Permit not transferable

A permit is not transferable in relation to either the permit holder or the dwelling or premises.

PART 5 - IMPOUNDING OF CATS

5.1 Cat management facility

- (1) The local government may establish and maintain a cat management facility or facilities, managed by an authorised person for the impounding of cats and the subsequent management of those cats under this local law. A local government may operate share cat management facilities with another local government.
- (2) The local government may determine from time to time -
 - (a) the times when a cat management facility will be open for the reception and release of cats; and
 - (b) times for the sale of cats from the facility.
- (3) An authorised person, referred to in subclause (1), is to be in attendance at the facility for the release of impounded cats at the times and on the days of the week as are determined by the CEO.

5.2 Impounding register

- (1) The local government is to keep a proper record of impounded cats (the Impounding Register).
- (2) The Impounding Register is to contain the following information about each impounded cat
 - (a) if known, the breed and sex of the cat;
 - (b) the colour, distinguishing markings and features of the cat;
 - (c) if known, the name and address of the owner;
 - (d) the date, time and location of seizure and impounding;
 - (e) the name and address of the authorised person who impounded the cat and, if applicable, the person who delivered a cat for impounding;
 - (f) the reason for the impounding;

a note of any direction made by an authorised person under clause 2.3 relating to the cat; and

 - (g) the date of the sale, release or destruction of the cat.
- (3) The Impounding Register is to be available for inspection by the public.

5.3 Charges and costs

The following are to be imposed and determined by the local government under sections 6.16 to 6.19 of the *Local Government Act 1995* -

- (a) the charges to be levied under section 31 of the Act relating to the seizure, impounding,

- caring, microchipping, sterilisation or destruction/disposal of a cat; and
- (b) the additional fee payable under section 31 of the Act where a cat is released or sold at a time or on a day other than those determined under clause 4.1(2).

5.4 Release of impounded cats

- (1) A claim for the release of a cat seized and impounded is to be made to the authorised person referred to in clause 4.1(1) or in the absence of that person, to the CEO.
- (2) The authorised person referred to in clause 4.1(1) is not to release a cat seized and impounded to any person unless that person has produced, to their satisfaction, evidence -
 - (a) of his or her ownership of the cat or of his or her authority to take delivery of it;
 - (b) that he or she is the person identified as the owner on a microchip implanted in the cat;
 - (c) of proof of registration of the cat in accordance with the Act;
 - (d) if a permit under Part 3 is required, proof of obtaining the permit; and
 - (e) of payment of the charges and costs imposed by the local government in accordance with clause 4.3.

5.5 No breaking into or destruction of a cat management facility

- (1) In this clause, a reference to a **person** does not include the person authorised in clause 4.1(1).
- (2) A person who -
 - (a) releases or attempts to release a cat from a cat management facility established under clause 4.1(1); or
 - (b) destroys, breaks into, damages or in any way interferes with or renders ineffective -
 - (i) any cat management facility established under clause 4.1; or,
 - (ii) any vehicle or container used for the purpose of catching, holding or conveying a seized cat,commits an offence.

PART 6 - MISCELLANEOUS

6.1 Giving of a notice

A notice given under this local law may be given to a person -

- (a) personally;
- (b) by mail addressed to the person; or
- (c) by leaving it for the person at her or his address.

6.2 Content of a notice

The contents of a notice given under section 6.1 can be -

- (a) ascertained from the person directly;
- (b) recorded by the local government under the Act; or
- (c) ascertained from enquiries made by the local government.

PART 7 - OBJECTIONS AND REVIEW

7.1 Objections and review

Any person who is aggrieved by the conditions imposed in relation to a permit, the revocation of

a permit, or by the refusal of the local government to grant a permit may object to the decision under Division 1 of Part 9 of the *Local Government Act 1995*.

PART 8 – OFFENCES AND PENALTIES

8.1 Offences

- (1) Any person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.
- (2) Any person who commits an offence under this local law is liable, on conviction, to a penalty not exceeding \$5000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.

8.2 Prescribed offences

An offence against a clause specified in Schedule 2 is a prescribed offence for the purposes of section 84 of the Act. The amount appearing directly opposite each such offence is the modified penalty in relation to that offence.

8.3 Forms

- (1) The issue of infringement notices, their withdrawal and the payment of modified penalties are dealt with in Division 4 of Part 4 of the Act.
- (2) An infringement notice given under section 62 of the Act is to be in the form of Form 6 of Schedule 1 of the *Cat Regulations 2012*.
- (3) A notice sent under section 65 of the Act withdrawing an infringement notice is to be in the form of Form 7 of Schedule 1 of the *Cat Regulations 2012*.

Schedule 1

ADDITIONAL CONDITIONS APPLICABLE TO PARTICULAR PERMITS

[Clause 4.8]

A. Permit to use premises as a cattery

Additional conditions

- (1) All building enclosures must be structurally sound, have impervious flooring, be well lit and ventilated and otherwise comply with all legislative requirements;
- (2) There is to be a feed room, wash area, isolation cages and maternity section;
- (3) Materials used in structures are to be approved by the local government;
- (4) The internal surfaces of walls are, where possible, to be smooth, free from cracks, crevices and other defects;
- (5) All fixtures, fittings and appliances are to be capable of being easily cleaned, resistant to corrosion and constructed to prevent the harbourage of vermin;
- (6) Wash basin with the minimum of cold water to be available to the satisfaction of the Local Government;
- (7) The maximum number of cats to be kept on the premises stated on the permit is not to be exceeded;
- (8) An register is to be kept recording in respect of each cat the -
 - (a) date of admission;
 - (b) date of departure;
 - (c) breed, age, colour and sex; and
 - (d) the name and residential address of the owner;
- (9) The register is to be made available for inspection on the request of an authorised person;
- (10) Enclosures are to be thoroughly cleaned each day and disinfected at least once a week to minimise disease;
- (11) Any sick or ailing cat is to be removed from the premises or transferred to an isolation cage separated from other cats on the premises; and
- (12) Any other matter which in the opinion of the local government is deemed necessary for the health and wellbeing of any cat, or person, or adjoining premises or the amenity of the area (or any part thereof).

B. Permit for Approved Cat Breeder

Additional conditions

- (1) Required to keep records of all purchases and or transfers of cat/s for a period of 2 years, including but not limited to the purchasers name and address, and the cat/s microchip number; and
- (2) Premises may be inspected annually.

Schedule 2
MODIFIED PENALTIES

[Clause 8.2]

Item No.	Clause	Nature of offence	Modified Penalty \$
1	2.1(2)(a)	Cat in a public place causing a nuisance	\$200
2	2.2(2)(a)	Cat in a place that is not a public place without consent and/or is causing a nuisance	\$200
3	2.3(1)	Cat in any prohibited area	\$200
4	2.4(4)(a)	Failure to abate the nuisance	\$200
5	2.5(1)(a)	Failure to comply with a direction to confine a cat	\$200
6	4.2(1)	Failure to obtain the proper permit for the keeping of 3 or more cats	\$200
7	4.8(3)	Failure to comply with the conditions of a permit	\$200
8	5.5(2)(a)	Attempting to or causing an unauthorised release a cat from a cat management facility	\$400
9	5.5(2)(b)	Interfering with any cat management facility, vehicle or container used for the purpose of catching, holding or conveying a seized cat	\$400

Schedule 3

AREAS WHERE CATS ARE PROHIBITED ABSOLUTELY

Dated the day of..... 2023.

The Common Seal of the }
Shire of Waroona }
was affixed by authority of a }
resolution of the Council }
in the presence of: }

SHIRE PRESIDENT

CHIEF EXECUTIVE OFFICER

DRAFT