



## **Shire of Capel**

### **Cats Local Law**

**2017**

Adopted      27.09.17      Government Gazette      09.10.17

**LOCAL GOVERNMENT ACT 1995**

**CAT ACT 2011**

**SHIRE OF CAPEL**

**CATS LOCAL LAW 2017**

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# LOCAL GOVERNMENT ACT 1995

## CAT ACT 2011

### Shire of Capel

#### Cats Local Law 2017

Under the powers conferred by the *Cat Act 2011*, the *Local Government Act 1995* and by all other powers enabling it, the Council of the Shire of Capel resolved on 27 September 2017 to make the following local law.

#### Part 1 – Preliminary

##### 1.1 Citation

This local law may be cited as the *Shire of Capel Cats Local Law 2017*.

##### 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 Definitions

In this local law unless the context otherwise requires –

*Act* means the *Cat Act 2011*;

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

*authorised person* means a person authorised by the local government to perform 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* means –

- (a) a facility operated by a local government that is, or may be, used for keeping cats;
- (b) a facility for keeping cats that is operated by a person or body prescribed; or
- (c) a facility for keeping cats that is operated by a person or body approved in writing by a local government;

*cattery* means any premises where more than 3 cats are kept, bred, boarded, housed or trained temporarily, whether for profit or otherwise, 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) securely tethered;
- (c) secured in a cage; or
- (d) any other means of preventing escape;

**grouped dwelling** (commonly referred to as a duplex, villa or townhouse) means a dwelling that is one of a group of two 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 Capel;

**multiple dwelling** (often called flats, apartments or units) means a dwelling in a group of more than one dwelling on a lot where any part of a dwelling is vertically above part of any other but –

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

**nuisance** means where a cat –

- (a) 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;
- (b) an unreasonable interference with the use and enjoyment of a person of his or her ownership or occupation of land; or
- (c) interference which causes material damage to land or other property on the land affected by the interference;

**owner** is a person who occupies any premises in which a cat is ordinarily kept or permitted to live and who has care and control of the cat;

**permit** means a permit issued by the local government under clause 3.6;

**permit holder** means a person who holds a valid permit under clause 3.6;

**premises** includes the following –

- (a) land (whether or not vacant);
- (b) the whole or part of a building or structure (whether of a permanent or temporary nature); and
- (c) a vehicle;

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

**Schedule** means a schedule to this local law; and

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

## **1.5 Repeal**

The Shire of Capel *Local Law Relating to the Keeping and Welfare of Cats* as published in the *Government Gazette* on 3 August 2004 and as amended in the *Government Gazette* on 1 February 2005 is repealed.

## **Part 2 – Cat control**

### **2.1 Cat nuisance**

The owner of a cat, or any other person in care or control of a cat, shall not allow a cat to create a nuisance.

## **Part 3 – Permits for keeping cats**

### **3.1 Interpretation**

In this part, and for the purposes of applying the definition of ‘cattery’, *cat* does not include a cat less than 6 months old.

### **3.2 Cats for which a permit is required**

- (1) Subject to subclause (2) a person is required to have a permit to –
  - (a) keep 3 or more cats on any premises; or
  - (b) use any premises as a cattery or cat management facility.
- (2) A permit is not required under subclause (1) if the premises concerned are –
  - (a) a refuge of the RSPCA or any other body prescribed in regulation 4 of the *Cat Regulations 2012*;
  - (b) a cat management facility which has been approved by the local government;
  - (c) a veterinary surgery; or
  - (d) a pet shop.

### **3.3 Application for permit**

An application for a permit under clause 3.2 shall be –

- (a) made in writing by an occupier of the premises in relation to those premises;
- (b) in a form approved by the local government, describing and specifying the number of cats to be kept on the premises;
- (c) accompanied by a brief reason and justification for the request;
- (d) accompanied by the plans of the premises to which the application relates in the form determined by the local government from time to time;
- (e) accompanied by the consent in writing of the owner of the premises where the occupier is not the owner of the premises to which the application relates; and
- (f) accompanied by the application fee for the permit determined by the local government from time to time.

### **3.4 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 3.3.

### **3.5 Factors relevant to the determination of application**

- (1) In determining an application for a permit the local government may have regard to –
  - (a) the reasons and justification provided for the request;
  - (b) the physical suitability of the premises for the proposed use;
  - (c) the suitability of the zoning of the premises under any Scheme which applies to the premises for the proposed use;
  - (d) the environmental sensitivity and general nature of the location surrounding the premises for the proposed use;
  - (e) the structural suitability of any enclosure in which any cat is to be kept;
  - (f) the likelihood of a cat causing nuisance, inconvenience, or annoyance to the occupiers of adjoining land;
  - (g) the likely effect on the amenity of the surrounding area of the proposed use;
  - (h) the likely effect on the local environment including any pollution or other environmental damage, which may be caused by the use;
  - (i) any submissions received under subclause (2) within the time specified in subclause (2); and
  - (j) such other factors which the local government may consider to be relevant in the circumstances of the particular case.
  
- (2) The local government may require an applicant to –
  - (a) consult with nearby landowners; or
  - (b) advise nearby landowners that they may make submissions to the local government on the application for a permit within 14 days of receiving that advice,

before determining the application for the permit.
  
- (3) The local government may specify the extent of consultation with nearby residents, as specified in subclause 3.5(2)(a) and may specify which properties should be consulted.

### **3.6 Decision on application**

- (1) The local government may –
  - (a) approve an application for a permit as it was submitted, in which case it shall approve it subject to the conditions in clause 3.7 and may approve it subject to any other conditions it sees fit;
  - (b) approve an application but specify an alternative number of cats permitted to be housed at the address; or
  - (c) refuse to approve an application for a permit.
  
- (2) If the local government approves an application under subclause (1), then it shall issue a permit to the applicant in the form determined by the CEO.
  
- (3) If the local government refuses to approve an application under subclause (1) then it shall advise the applicant accordingly in writing.

### **3.7 Conditions**

- (1) Every permit is issued subject to the following conditions –
  - (a) each cat kept on the premises to which the permit relates shall comply with the requirements of the Act;
  - (b) each cat shall be contained on the premises unless under the effective control of a person;
  - (c) the permit holder will provide adequate space for the exercise of the cats;
  - (d) the premises shall be maintained in good order and in a clean and sanitary condition; and
  - (e) 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.

### **3.8 Compliance with conditions of permit**

A permit holder shall comply with each condition of a permit.

### **3.9 Duration of a permit**

Unless otherwise specified in a condition on a permit, a permit commences on the date of issue and expires –

- (a) if it is revoked; or
- (b) the permit holder ceases to reside at the premises to which the permit relates.

### **3.10 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.

### **3.11 Permit not transferable**

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

### **3.12 Permit to be kept at premises and available for view**

- (1) A permit issued by the local government shall be kept at the premises to which it applies and shall be provided to an authorised person on demand.
- (2) In the case of a registered cattery or cat management facility, the permit shall be displayed in a prominent place within the premises.

## **Part 4 – Miscellaneous**

### **4.1. Giving of an infringement notice**

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

- (a) personally;
- (b) by postal mail addressed to the person; or



- (c) by leaving it for the person at her or his address.

## **Part 5 – Objections and appeals**

### **5.1. Objections and appeal rights**

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 or appeal against the decision under Division 1 of Part 9 of the *Local Government Act 1995*.

## **Part 6 – Offences and penalties**

### **6.1 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) Unless otherwise specified, any person who commits an offence under this local law is liable on conviction, to a penalty not exceeding \$5,000, and if the offence is of a continuing nature, to a further penalty not exceeding a fine of \$500 in respect of each day or part of a day during which the offence has continued.

### **6.2 Prescribed offences**

- (1) An offence against a clause specified in Schedule 2 is a prescribed offence for the purposes of section 63 of the Act.
- (2) The amount appearing directly opposite each such offence is the modified penalty in relation to that offence.

### **6.3 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 in respect of an offence against this local law may be given under section 62 of the Act and is to be in the form of Schedule 1, Form 6 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 Schedule 1, Form 7 of the *Cat Regulations 2012*.

## **Schedule 1 – Additional conditions applicable to particular permits**

[Clause 3.7]

### **A. Permit to keep 3 or more cats**

Additional conditions

- (1) In the case of a grouped dwelling where there is no suitable dividing fence or multiple dwellings on the same level, the written consent to the application for a permit of the occupier of the adjoining dwellings has been obtained.
- (2) Without the consent of the local government, the permit holder will not substitute or replace any cat that is the subject of a permit once that cat –
  - (a) dies; or
  - (b) is permanently removed from the premises.

## **B. Permit to use premises as a Cattery or Cat Management Facility**

### 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) Washing basins with a minimum of running cold water are 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) A 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) 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 kept on the premises.
- (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).

**Schedule 2 – Modified penalties**

[Clause 6.2]

<b>Item No.</b>	<b>Clause No.</b>	<b>Nature of Offence</b>	<b>Penalty</b>
1	2.1	Cat causing a nuisance	\$200.00
2	3.2(1)	Failure of a person to hold a permit when required	\$200.00
3	3.8	Breach of a condition of a permit	\$200.00

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Dated 27 September 2017

The Common Seal of the Shire of Capel        )  
 was affixed by authority of a resolution        )  
 of the Council in the presence of-                )

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**MT SCOTT, President**

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**PF SHEEDY, Chief Executive Officer**