

LOCAL GOVERNMENT ACT 1995

SHIRE OF NORTHAM

KEEPING AND CONTROL OF CATS LOCAL LAW 2008

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Northam resolved on 23rd July 2008 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Northam Keeping and Control of Cats Local Law 2008*.

1.2 Objects

The object of this local law is—

- (a) to encourage responsible cat ownership;
- (b) to reduce public and environmental nuisance caused by cats; and
- (c) to promote the effective management of cats.

1.3 Definitions

In this local law—

“**Act**” means the *Local Government Act 1995*;

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

“**approved cattery**” means any premises which are the subject of a valid planning approval under a Scheme or which is a non-conforming use that may continue under a Scheme;

“**authorised person**” means a person authorised by the local government under section 9.10 of the Act to perform any of the functions of an authorised person under this local law;

“**cat**” means any member of the species *felix domesticus* (domestic cat) over the age of three months and includes all domestic, feral and stray cats but does not include any other Feline species, e.g. Lion, Tiger, etc;

“**cattery**” means any premises where more than 4 cats over the age of 3 months are kept, boarded, trained or bred;

“**CEO**” means the Chief Executive Officer of the Shire of Northam;

“**Council**” means the Council of the Shire of Northam;

“**District**” means the district of the local government;

“**identified cat**” means a cat, which is identified under clause 2.2;

“**keeper**” in relation to a cat means each of the following—

- (a) the owner of the cat;
- (b) a person by whom the cat is ordinarily kept;
- (c) a person who has or appears to have immediate custody or control of the cat;
- (d) a person who keeps the cat, or has the cat in her or his possession for the time being; or
- (e) the holder of an exemption issued in relation to the cat.

“**local government**” means the Shire of Northam;

“**nuisance**” means if a cat—

- (a) is injurious or dangerous to the health of any person or domestic or Australian indigenous animal or is in the opinion of an authorised person likely to be injurious or dangerous to the health of any person or domestic or Australia indigenous animal;
- (b) creates a noise which persistently occurs or continues to a degree or extent which in the opinion of an authorised person, and has or could have a disturbing effect on the state of reasonable physical, mental, or social well-being of a person; or
- (c) behaves in a manner that is contrary to a reasonable standard of behaviour expected of an animal in the locality of the premises where the cat is normally resident;

“**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—

- (a) any land and any improvements; and
- (b) any part of any building in separate ownership or separate occupation, or any unit, flat, townhouse, duplex or apartment;

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

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

1.4 Application

This local law applies throughout the district.

1.5 Repeal

The Shire of Northam Keeping and Control of Cats Local Law 2002 as published in the *Government Gazette* of 10 September 2002 and as amended and published in the *Government Gazette* of 17 March 2006 is repealed.

PART 2—IDENTIFYING CATS

2.1 Keeper of a cat shall identify it

A keeper of a cat shall identify the cat by one of the methods described in clause 2.2.

2.2 When a cat is identified

A cat is identified if—

- (a) the cat has a collar around its neck and the collar, or a tag securely attached to the collar, is marked with the current address or telephone number of a keeper of the cat; or
- (b) the cat has—
 - (i) a microchip implanted in its body containing, or containing information that may be used to obtain the name of a keeper of the cat and a current address or telephone number of the keeper; and
 - (ii) the letter “M” is tattooed on the inside of either of its ears.

2.3 No marking of “M” permitted without microchip

(1) A person shall not—

- (a) tattoo, and cause to be tattooed, the letter “M” on the inside of a cat’s ear; or
- (b) mark the inside of a cat’s ear, or cause the inside of a cat’s ear to be marked, in a manner likely to be mistaken for the letter “M”,

unless the cat has a microchip implanted in its body containing the information referred to in subclause (2).

(2) A microchip referred to in subclause (1) shall—

- (a) contain; or
- (b) contain information that can be used to obtain,

the name of a keeper of the cat and a current address or telephone number of the keeper.

2.4 No interference with identification

A person, other than the keeper of a cat or a person acting with the keeper’s authority, shall not without reasonable excuse interfere with or remove the means by which a cat is identified under clause 2.2.

2.5 Address of keeper

For the purpose of giving a notice to a keeper of an identified cat, the keeper’s address is to be taken to be that ascertained from the cat’s collar or tag, or on or obtained from the microchip.

2.6 Clause 2.1 does not apply

Clause 2.1 does not apply to a cat—

- (a) kept at any refuge conducted by the RSPCA or any other animal welfare organisation;
- (b) kept at an animal pound which has been approved by the local government;
- (c) kept at a pet shop;
- (d) kept at a veterinary surgery; or
- (e) which is less than 3 months old.

PART 3—PERMITS FOR KEEPING CATS

3.1 Interpretation

In this Part, and for the purposes of applying the definition of “cattery” in clause 1.3—

“**cat**” does not include a cat less than 3 months old.

3.2 Cats for which permit is required

(1) Subject to subclause (2) a person shall not keep 3 or more cats on any premises except in accordance with a valid permit;

(2) A permit is not required under subclause (1) if the premises concerned are—

- (a) a refuge of the RSPCA or any other animal welfare organisation;
- (b) an animal pound which has been approved by the local government;
- (c) a veterinary surgery;
- (d) a pet shop;
- (e) an approved cattery; or
- (f) a premises with 2 or less cats.

3.3 Application for permit

An application for a permit under clause 3.2 shall be—

- (a) be made by an occupier of 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 and stating whether or not those cats are identified under clause 2.1;
- (c) 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;

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 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 structural suitability of any enclosure in which any cat is to be kept;
- (d) the likelihood of a cat causing a nuisance, inconvenience or annoyance to the occupiers of adjoining land;
- (e) the likely effect on the amenity of the surrounding area of the proposed use;
- (f) the likely effect on the local environment, including any pollution or other environment damage which may be caused by the use;
- (g) any submissions received under subclause (2) within the time specified in subclause (2); and
- (h) 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 adjoining landowners; and
- (b) advise the adjoining 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.

3.6 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 3.7 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)(a) then it shall issue to the applicant a permit in the form determined by the local government.

(3) If the local government refuses to approve an application under subclause (1)(b), then it is to 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 be an identified cat;
- (b) each cat shall be contained on the premises unless under the control of a person;
- (c) the premises shall be maintained in good order and in a clean and sanitary condition; and
- (d) the permit holder shall not substitute or replace any cat once that cat—
 - (i) dies; or
 - (ii) is permanently removed from the premises,

without first obtaining the consent of the local government and if that consent is obtained, the new cat shall be subject to the terms and conditions of the permit.

(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, with such conditions being set in accordance with the objects of the local law.

3.8 Compliance with conditions of permit

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

3.9 Duration of permit

Unless otherwise specified, in a condition on a permit, a permit commences on the date of issue and is valid unless and until—

- (a) 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 transferable either in relation to the permit holder or the premises.

3.12 No contravention of conditions

Subject to a defence under clause 7.4, a keeper shall not contravene a condition of a permit.

PART 4—NUISANCE CATS

4.1 Cat not to be a Nuisance

- (a) a keeper shall not allow a cat to be or create a nuisance;
- (b) where, in the opinion of an authorised person, or the local government receives signed complaints in the form of the Schedule 1 from two persons each of whom occupy different premises, that a cat is creating a nuisance the local government may give written notice to the keeper of the cat requiring that person to abate the nuisance.
- (c) 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.
- (d) a person given a notice to abate the nuisance shall comply with the notice within the period specified in the notice.

PART 5—ABANDONMENT OF CATS

5.1 No abandonment

A person shall not abandon a cat.

5.2 Delivery to an authorised person not abandonment

A person who delivers a cat into the custody of an authorised person is to be taken not to have abandoned the cat.

PART 6—OBJECTIONS AND APPEALS

6.1 Objection and appeal rights

A person adversely affected by a decision of the local government under Part 3, including a decision to refuse to approve an application for a permit or to revoke a permit, may object to or appeal against the decision under Part 9, Division 1 of the Act and in regulation 33 of the *Local Government (Functions and General) Regulations 1996*.

PART 7—OFFENCES, DEFENCE AND PENALTIES

Division 1—General

7.1 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 \$5,000, 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.

Division 2—Infringement notices and modified penalties

7.2 Prescribed offences

An offence against a clause specified in Schedule 2 is a prescribed offence for the purposes of section 9.16 (1) of the Act. The amount appearing directly opposite each such offence is the modified penalty in relation to that offence.

7.3 Forms

- (1) An infringement notice given under section 9.16(1) of the Act is to be in the form of Form 2 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.
- (2) A notice sent under section 9.20 of the Act withdrawing an infringement notice is to be in the form of Form 3 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.

Division 3—Defence

7.4 Defence to a charge

It is a defence to a charge of an offence of contravening any clause of this local law if the keeper charged satisfies the court that at the material time some other person (whom he or she shall identify) over the age of 18 years was the keeper of the cat(s).

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Schedule 1

Shire of Northam

KEEPING AND CONTROL OF CATS LOCAL LAW 2008

FORM 3—NUISANCE FORM

TAKE NOTICE THAT a cat, believed to be a ⁽¹⁾
 has created a nuisance by ⁽²⁾
 the cat is believed to belong to ⁽³⁾
 and is kept at ⁽⁴⁾

and I ⁽⁵⁾
 of

requests the Council to institute proceedings, if the nuisance does not stop, and undertake—

- (a) to give full information to the Council as to this matter; and
- (b) to appear in Court and give evidence as a witness to the truth of this complaint.

Dated this..... day of 20

(to be signed by complainant)

- ⁽¹⁾ Insert breed or kind of cat and, where possible, its sex and identifying marks.
- ⁽²⁾ Describe details of the alleged nuisance, including the kind of nuisance and, where possible, the dates and time on or between which the nuisance occurred, and where the cat was at the time of the nuisance.
- ⁽³⁾ State name and address of the person believed to be the owner.
- ⁽⁴⁾ State, if known, where the cat is usually kept.
- ⁽⁵⁾ Insert name and address of complainant.

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Schedule 2

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MODIFIED PENALTIES

Item No	Clause No	Nature of Offence	Modified Penalty
1	2.1	Failure to identify a cat	\$100
2	2.3	"M" tattooed on cat when no microchip	\$100
3	2.4	Interference with or removal of identification of a cat	\$100
4	3.2(1)	Keeping of 3 or more cats on premises without permit	\$100
5	4.1	Failure to comply with a notice to abate a nuisance.	\$100
6	5.1	Abandonment of a cat	\$250

LOCAL GOVERNMENT ACT 1995

Schedule 3

Shire of Northam

KEEPING AND CONTROL OF CATS LOCAL LAW 2008

ADDITIONAL CONDITIONS APPLICABLE TO PARTICULAR PERMITS

A Permit to keep 3 to 4 cats

Additional conditions

- (1) The written consent to the application for a permit of the adjoining multiple dwellings has been obtained;
- (2) Without the consent of the local government, the permit holder will not substitute or replace any cat once that cat—
 - (a) dies;
 - (b) is permanently removed from the premises.

B 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 harborage of vermin.
- (6) Wash basin with the minimum of cold water to be available.
- (7) The maximum number of cats to be kept on the premises stated on the permit is not to be exceeded.
- (8) An entry book 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 keeper;
- (9) The entry book 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 other matter which in the opinion of the local government is deemed necessary for the health and well being of any cat, or person, or adjoining premises or the amenity of the area (or any part thereof).

Dated 23rd July 2008.

The Common Seal of the Shire of Northam was affixed by authority of a resolution of the Council in the presence of—

Cr S. B. POLLARD, Shire President.
G. BRENNAN, Acting Chief Executive Officer.
