

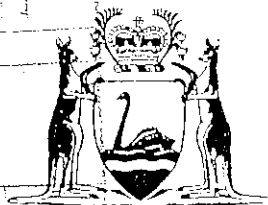


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LOCAL GOVERNMENT ACT 1995

SHIRE OF BUSSELTON

LOCAL LAW RELATING TO THE KEEPING AND WELFARE OF CATS

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Under the powers conferred by the Local Government Act 1995 and by all other powers, the Council of the Shire of Busselton resolved to make the following local laws on the 13th day of September, 2000.

PART 1—PRELIMINARY**1. Citation**

1.1 This local law may be cited as the Keeping and Welfare of Cats Local Law.

2. Objects

2.1 The objects of this local law are to—

- (a) Promote responsible cat ownership;
- (b) Reduce the nuisance to the community caused by cats;
- (c) Limit the damage to and the loss of wildlife caused by cats; and
- (d) Promote the welfare and safety of domestic cats.

3. Interpretation

3.1 In this local law unless the context otherwise requires—

“Act” means the Local Government Act 1995;

“adult cat” means a cat of the age of 3 months or over;

“authorised person” means a person authorised by the Chief Executive Officer of the local government to perform the functions conferred on an authorised person under this local law;

“cat” means any member of species *Felis Catus* (domestic cat) of the family Felidae. This includes all domestic, feral and stray cats but does not include any other Feline species, eg. Lions, Tigers, etc;

“cat pound” means a pound referred to in Clause 10.1;

“cattery” means any premises where 3 or more cats are kept, boarded, trained or bred;

“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;

“keeper” means the owner of the cat;

“local government” means the Shire of Busselton;

“Local Public Notice” has the same meaning as is given to it in the Act;

“Manager” means the person or persons appointed by the Chief Executive Officer of the local government to perform this function;

“multiple dwelling” means any building or place designed for habitation by more than one (1) domestic group and includes, but is not limited to, units, flats, town houses, duplexes or apartments;

“notice to abate” means a notice to abate a nuisance referred to in Clause 7;

“notice of impounding” means the notice referred to in Clause 10.7;

“nuisance” means if a cat—

- (a) Is injurious or dangerous to the health of any person or domestic or Australian indigenous 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) Is shown to be allowed to behave consistently in a manner contrary to the general interest of the community;

“permit holder” means a person who holds a permit granted under this local law;

“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, town house, duplex or apartment;

“public place” includes any place to which the public has access;

“registered and identified cat” means a cat which is registered and identified under Clause 4;

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

“sterilised” means rendered sterile—

- (a) in the case of a female cat, by ovarioectomy or ovariectomy; and
- (b) in the case of a male cat, by castration;

“unidentified cat” means a cat which is not identified under Clause 4;

“veterinary surgeon” means a veterinary surgeon registered under the Veterinary Surgeons Act 1960.

PART 2—KEEPING OF CATS

4. Cats to be identified and registered

4.1 Subject to Clause 4.7, a keeper of a cat must register the cat with the Local Government and identify the cat in accordance with this Section 4.

4.2 An application to register a cat with the Local Government must include details of—

- (a) The current name, address and telephone number of the owner;
- (b) The location of the premises at which the cat is kept;
- (c) The sex of the cat;
- (d) The breed of the cat; and
- (e) Whether the cat is sterilised or unsterilised.

4.3 The Local Government may by resolution of its Council prescribe a fee to be paid by the keeper of a cat upon registration of a cat. The fee set may be different for a sterilised cat as distinct from an entire cat.

4.4 The Local Government may by a resolution of its Council set the period of registration and date of renewal.

4.5 The keeper of the cat shall notify the Local Government of any change in registration details as outlined in Clause 4.2.

4.6 A cat will be taken to be identified if—

- (a) The cat has a microchip implanted in its body containing the name, current address and telephone number of the keeper of the cat; or
- (b) A collar around its neck and the collar, or tag securely attached to the collar, is marked with the name, current address and telephone number of the keeper of the cat.

4.7 The requirements of Clause 4 to be registered and identified do not apply to a cat—

- (a) While at any refuge conducted by the RSPCA or any other animal welfare organisation;
- (b) While at an animal pound which has been approved by the local government;
- (c) While at a pet shop;
- (d) While at a veterinary surgery;
- (e) Less than 3 months of age;
- (f) Until the cat has been kept within the district for more than 28 days;
- (g) Until the keeper has been a resident of the district for more than 28 days; or
- (h) Where an exemption has been granted by the local government in accordance with a policy published by the local government.

4.8 Except for a veterinary surgeon a person must not, without reasonable excuse, interfere with or remove the means by which a cat is identified under this local law.

5. Cats for which permit is required

5.1 Subject to Clause 5.2, an occupier is required to have a permit—

- (a) To keep 3 or more cats on any premises;
- (b) To use any premises as a cattery.

5.2 A permit is not required under Clauses 5.1(a) or (b) if the premises concerned are—

- (a) A refuge of the RSPCA or of any other animal welfare organisation;
- (b) An animal pound which has been approved by the local government;
- (c) A veterinary surgery; or
- (d) The subject of an exemption granted by the local government.

5.3 An application for a permit under clause 5.1—

- (a) Must be in a form approved by the CEO, and must be accompanied by the application fee for the permit determined by the local government from time to time;

- (b) Is not deemed to have been made until the application fee has been paid;
- (c) Is to be accompanied by the plans to the specification and satisfaction of the Local Government of the premises to which the application relates;

5.4 The local government may--

- (a) Approve an application for a permit subject to conditions; or
- (b) Refuse to approve an application for a permit.

5.5 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 for the proposed 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 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 proposed use;
- (h) The applicant's infringement history with the Local Government or any other Local Government; and
- (i) Such other factors which the local government may consider to be relevant in the circumstances of the particular case. The applicant's infringement history with the local government.

5.6 The additional conditions contained in Schedule 1 of this Local Law shall form part of the conditions of any permit issued under this Section 5.

5.7 Any cat to which a permit relates must be a registered and identified cat;

5.8 An authorised person may, during the term of the permit seize and impound any or all of the cats on the premises, if the authorised person suspects that a breach of the permit, or of any condition of the permit, has occurred;

5.9 A permit may be revoked by the Local Government if there is a breach of any condition of that permit or if the permit holder is convicted of a breach of any provision of this local law;

5.10 A permit relates to specific premises and to a specific permit holder, and is not transferable on--

- (a) The sale or lease of the premises to which the permit relates; or
- (b) The sale or lease of a cattery;

5.11 A person shall not contravene a condition of a permit.

5.12 Unless otherwise specified on a permit, a permit commences on the date of issue and expires on the 30th day of June next following.

PART 3—CONTROL OF CATS

6. Cats in public or other places

- 6.1 (a) A cat shall not be in a public place unless the cat is, in the opinion of an authorised officer, under effective control;
- (b) If a cat is at any time in a public place in contravention of Clause 6.1(a)--
- (i) The keeper of the cat commits an offence; and
 - (ii) An authorised person may seize and impound the cat.
- 6.2 (a) A cat shall not be in any place that is not a public place unless--
- (i) Consent to its being there has been given by the occupier, or a person apparently authorised to consent on behalf of the occupier; and
 - (ii) It is under effective control.
- (b) If a cat is at any time in any place in contravention of Clause 6.2(a)--
- (i) The keeper of the cat commits an offence; and
 - (ii) An authorised person may seize and impound the cat.

7. Nuisances

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

7.2 Where, in the opinion of an authorised officer, a cat is creating a nuisance, the local government may give written notice to the keeper of the cat or any other person apparently in control of the cat, requiring that person to abate the nuisance.

7.3 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 notice is withdrawn by the local government.

7.4 A person given a notice to abate the nuisance shall comply with the notice within the period specified in the notice.

8. Cats in remote or fragile areas

8.1 The local government may by resolution from time to time designate particular places or areas within the district of the Shire as places or areas on which cats are prohibited from entering or remaining ("a Cat Prohibited Area").

8.2 The local government shall not designate a place or area to be a Cat Prohibited Area without first giving Local Public Notice of its intention to designate a place or area as a Cat Prohibited Area and considering any submissions received in response to that Local Public Notice.

8.3 No person shall keep a cat in a Cat Prohibited Area.

8.4 Notwithstanding anything to the contrary in this local law, an authorised person, the owner or occupier of a Cat Prohibited Area, or a person authorised for that purpose by the owner or the occupier, may seize, detain and deliver to the local government for impounding any cat found in a Cat Prohibited Area.

8.5 A person who seizes or detains a registered and identified cat must, as soon as practicable, take reasonable steps to inform the keeper of the cat of the action taken.

9. Trapping of cats

9.1 A person shall not set or cause to be set any spring-loaded, steel-jawed trap or similar device which is likely to cause physical pain or death to any cat caught in it.

PART 4—IMPOUNDING OF CATS

10. Cat pounds

10.1 The local government may establish and maintain a pound or pounds, and may approve an animal pound maintained by any person, for the impounding of cats under this local law.

10.2 The local government may determine from time to time—

- (a) The times when a cat pound will be open for the reception and release of cats;
- (b) Times for the sale of cats from the pound; and
- (c) A scale of impounding fees to be paid on the release of impounded cats

10.3 The local government is to keep a proper record of impounded cats (the "Impounding Register").

10.4 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 keeper;
- (d) The date and time 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 under Clause 10.1 for impounding;
- (f) The reason for the impounding;
- (g) A note of any order made by an authorised person relating to the cat; and
- (h) The date of the sale, release or destruction of the cat.

10.5 The Impounding Register is to be available for inspection by the public.

10.6 A person shall not—

- (a) Unless the person is a pound keeper, or an employee of the local government duly authorised in that regard, release or attempt to release a cat from a cat pound;
- (b) Destroy, break into, damage or in any other way interfere with or render not cat proof a cat pound; or
- (c) Destroy, break into, damage, or in any other way interfere with any container used for the purpose of catching, holding or conveying cats which have been seized.

10.7 If a registered and identified cat is impounded the authorised person must give the registered keeper of the cat written notice of the impounding which states that the cat may be reclaimed within a specified period on the payment of specified fees.

10.8 The payment of any fees by any person in respect of the seizure, impounding and detention of a cat does not relieve that person of any liability to a penalty for an offence against any provision of this local law.

10.9 Where—

- (a) A person wishes to reclaim a cat within the period stated in a notice of impounding; and
- (b) A permit is required for the keeping of the cat, but the person does not have the necessary permit and/or the cat is not registered;

the cat must not be given to the person until the person obtains the necessary permit and/or the cat is registered.

10.10 Where an unidentified cat is impounded and is not reclaimed within 7 days of its impounding, the local government may—

- (a) Offer the cat for sale through the cat pound;
- (b) Cause the cat to be destroyed; or
- (c) Cause the cat to be rehoused.

- 10.11(a) Subject to Subclause (b), where an impounded cat is diseased, emaciated, injured or sick, the local government may destroy the cat without the requirement to hold the cat, upon the written authority of a veterinary surgeon
- (b) Unless the condition of a cat is such that it should in the opinion of an authorised officer be destroyed immediately, where an identified cat is diseased, emaciated or sick, the local government shall not destroy a cat under Subclause (a) which is a registered and identified cat until reasonable steps have been taken to notify the registered keeper of the condition of the cat and the local governments intention to have it destroyed.
- 10.12 Where a registered and identified cat is impounded and it is not reclaimed within the period specified in a notice of impounding, the local government may—
- (a) Offer the cat for sale through a cat pound;
- (b) Cause the cat to be destroyed; or
- (c) Cause the cat to be rehoused.
- 10.13 If an impounded cat is sold under Clause 10.10 or 10.12, the proceeds of sale become the property of the local government and may be disposed of in such manner as the local government thinks fit.

PART 5—DESTRUCTION OF CATS

11. Destruction at request of keeper

11.1 A keeper of a cat may request the local government to destroy the cat.

11.2 Where a keeper requests that a cat be destroyed, the keeper must complete and sign a form of authorisation showing—

- (a) The name and residential address of the keeper making the request;
- (b) A description of the cat including its breed, colour, sex and age;
- (c) The reason for destruction; and
- (d) A signature authorising destruction,

and produce reasonable evidence to the satisfaction of the local government that the person making the request is the keeper of the cat.

11.3 The local government may charge a keeper a fee in respect of the destruction of a cat under Clause 11.1, and the fee shall be determined by the local government from time to time.

12. Abandonment of cats

12.1 A person must not abandon a cat.

12.2 A person who delivers a cat into the custody of an authorised person or to a cat pound is not to be regarded as having abandoned the cat.

PART 6—MISCELLANEOUS

13. Serving of notices

13.1 A notice given under this local law may be served—

- (a) In person to the keeper;
- (b) By leaving it with any person at the keepers address or last known address;
- (c) By leaving it on or in some conspicuous part of the premises in which the cat is at that time ordinarily kept, or ordinarily permitted to live; or
- (d) By posting the notice to the keeper at the keepers address.

13.2 Where any notice is required to be given under this local law, the address of the keeper of a cat shall be taken to be, in the case of a registered cat, the address shown on the register kept by the local government as the keepers address unless the local government has been advised in writing by the keeper of a change in address.

13.3 A notice served by post under Clause 13.1(d) shall be taken as having been served 24 hours after it is posted.

14. Evidence

14.1 In proceedings for an offence against any provision of this local law—

- (a) An allegation in the complaint that at a specified time a person was the keeper of the cat is evidence of that fact in the absence of proof to the contrary;
- (b) The onus of proving that a cat was at a specified time under the age of 3 months lies on the person making that assertion; and
- (c) A copy of an entry in a register certified by an authorised person shall, without proof of the signature of the person appearing to have signed the copy or that he or she is an authorised person be evidence of the matters relevant to the proceedings set out in that certified copy.

15. Objections and appeals

15.1 When—

- (a) The local government makes a decision to,
- (i) Grant or refuse to grant a person a permit under this local law; or
- (ii) Renew, vary or cancel a permit that a person has under this local law;

the provisions of Division 1 of Part 9 of the Act and Regulations 33 and 34 of the Local Government (Functions and General) Regulations 1996 apply to that decision.

16. General offence and penalty provisions

- 16.1 (a) Any person failing to do any act required to be done, or doing any act forbidden to be done by any provision under this local law, or any notice or order given or made under any provision of this local law commits an offence
- (b) An offence against any provision of this local law is a prescribed offence for the purposes of Section 9.16(a) of the Act.
- (c) Any person who commits an offence under this local law shall be liable, upon conviction, to a penalty not exceeding \$2,000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$200 for each day or part of a day during which the offence has continued.
- 16.2 The amount appearing in the final column of Schedule 2 directly opposite an offence described in that Schedule, is the modified penalty for that offence.
- 16.3 An infringement notice in respect of an offence against this local law may be given under Section 9.13 of the Act and is to be in the form of Schedule 3.
- 16.4 A notice sent under Section 9.20 of the Act withdrawing an infringement notice is to be in the form of Schedule 4.
- 16.5 A penalty for an offence against this local law may be recovered by the local government taking proceedings against the alleged offender in a Court of Petty Sessions.
- 16.6 The local government shall cause to be kept adequate records of all infringement notices given, and all penalties received under this local law.

Schedule 1**ADDITIONAL CONDITIONS APPLICABLE TO PARTICULAR PERMITS****A PERMIT TO KEEP 3 OR MORE CATS****ADDITIONAL CONDITIONS**

- (1) The premises will during the currency of the permit remain adequately fenced (premises will be deemed not to be adequately fenced if there is more than one escape of a cat from the premises)
- (2) The keeper will have during the term of the permit adequate space for the exercise of the cats;
- (3) In the case of a multiple dwelling, where there is no suitable dividing fence, the written consent to the application for a permit of the occupier of the adjoining multiple dwellings has been obtained;
- (4) Without the consent of the local government, the permit holder will not substitute or replace any cat once that cat—
 - (a) Dies; or
 - (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 harbourage of vermin.
- (6) Washing basins and running hot and 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) 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) No sick or ailing cat is to be kept on the premises.

*Schedule 2***KEEPING AND WELFARE OF CATS LOCAL LAW**

Item No.	Clause No.	Nature of Offence	Penalty Sterilized Cat	Penalty Non Sterilized Cat
1	4.1	Failure of a keeper to register a cat	\$50.00	\$100.00
2	4.6	Failure of a keeper to identify a cat	\$50.00	\$100.00
3	5.1	Failure of an occupier to hold a permit	\$150.00	\$150.00
4	5.11	Breach of a condition of a permit	\$100.00	\$100.00
5	6.1	Cat in a public place	\$50.00	\$100.00
6	6.1	Cat in other than a public place	\$50.00	\$100.00
7	7.4	Failure to comply with a notice to abate a nuisance	\$100.00	\$100.00
8	8.1	Cat in a Cat Prohibited Area	\$75.00	\$150.00
9	9.1	Setting an unlawful trap	\$150.00	\$150.00
10	12.1	Abandonment of cat	\$150.00	\$150.00
11		All other offences not specified	\$100.00	\$100.00

*Schedule 3***Local Government Act 1995****KEEPING AND WELFARE OF CATS LOCAL LAW****INFRINGEMENT NOTICE**

Serial No.

Date/...../.....

To: ⁽¹⁾

of:

It is alleged that on/...../..... at ⁽²⁾at ⁽⁴⁾

you committed the following offence—

contrary to Clause of the Keeping and Welfare of Cats Local Law.

The modified penalty for the offence is \$

If you do not wish to have a complaint of the alleged offence heard and determined by a court, the amount of the modified penalty must be paid within a period of 28 days after the giving of this notice. The modified penalty may be paid by either posting this form together with the amount of the modified penalty to the Chief Executive Officer of the Shire of Busselton at Southern Drive, Busselton or by paying the amount of the modified penalty to an authorised person at the Shire of Busselton at Southern Drive, Busselton between the hours of 8.30am to 4.30pm Monday to Friday.

If you take no action this infringement notice may be registered with the Fines Enforcement Registry after which your driver's licence or any vehicle licence held by you may be suspended. If the matter is registered with the Registry additional costs will also be payable.

If the above address is not your current address, or if you change your address, it is important that you advise us immediately. Failure to do so may result in your driver's licence or any vehicle licence you hold being suspended without your knowledge.

Name and title of authorised person giving the notice

Signature:

Insert

⁽¹⁾ Name of alleged offender⁽²⁾ Address of alleged offender⁽³⁾ Time at which offence allegedly committed⁽⁴⁾ Place at which offence allegedly committed

Schedule 4

Local Government Act 1995

KEEPING AND WELFARE OF CATS LOCAL LAWS

NOTICE OF WITHDRAWAL OF INFRINGEMENT NOTICE

Serial No.

Date/...../.....

To: ⁽¹⁾

of: ⁽²⁾

Infringement Notice No. dated/...../..... for the alleged offence
..... has been withdrawn.

The modified penalty of \$

- * Has been paid and a refund is enclosed.
- * Has not been paid and should not be paid
- * Delete as appropriate

Name and title of authorised person giving the notice

Signature :

Insert

⁽¹⁾ Name of alleged offender to whom infringement notice was given

⁽²⁾ Address of alleged offender

The Common Seal of the Shire of Busselton was hereunto affixed by a resolution of Council in the presence of---

BERYLE MORGAN, Shire President.
MICHAEL SWIFT, Chief Executive Officer.

Dated this 12th day of March 2001.