

# City of Kwinana

## Proposed Cat Local Law 2021



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**PROPOSED CAT LOCAL LAW 2021**

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**Cat Act 2011**  
**Local Government Act 1995**

**City of Kwinana**

## **PROPOSED CAT LOCAL LAW 2021**

Under the powers conferred by the *Cat Act 2011*, the *Local Government Act 1995* and all other powers enabling it, the Council of the City of Kwinana resolved on [date] to adopt the following local law.

### **PART 1 — PRELIMINARY**

#### **1.1 Citation**

This Local Law may be cited as the *City of Kwinana Cat Local Law 2021*.

#### **1.2 Definitions**

(1) In this local law unless the context requires otherwise —

***abandon*** means to cease to look after;

***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*** has the same meaning as in the Act;

***cat*** has the same meaning as in the Act;

***cat management facility*** has the same meaning as in the Act;

***Cat Haven*** means the Cat Welfare Society Inc., trading as “Cat Haven”;

***cattery*** means a facility where 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 person liable for the control 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;

***local government*** means the City of Kwinana;

***owner*** in relation to a cat has the same meaning as in the Act;

***permit*** means a permit issued by the local government under this local law;

***permit holder*** means a person who holds a valid permit issued by the local government under this local law;

***person liable for the control of*** means each of the following in relation to a cat —

- (a) the registered owner of the cat; or
- (b) the owner of the cat; or

- (c) the occupier of any premises where the cat is ordinarily kept or ordinarily permitted to live; or
- (d) a person who has the cat in their possession or under their control, but does not include a registered veterinary surgeon, or a person acting on their behalf, in the course of their professional practice;

**premises** has the same meaning as in the Act;

**prescribed** means prescribed under regulations made under 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;

**veterinary clinic** has the meaning given to it in the *Veterinary Surgeons Act 1960*; and

**veterinary hospital** has the meaning given to it in the *Veterinary Surgeons Act 1960*.

### 1.3 Commencement

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

### 1.4 Application

This local law applies throughout the district.

## PART 2 — KEEPING OF CATS

### 2.1 Limit on number of cats

- (1) Subject to subclause (2), a person shall not:
  - (a) keep more than two (2) cats at a premises at one time; or
  - (b) operate a cattery or cat management facility without a valid permit issued by the local government.
- (2) Subclause (1) does not apply to the following:
  - (a) a cattery or cat management facility operated by either:
    - (i) the local government; or
    - (ii) a person or body prescribed by the *Cat Regulations 2012*;
  - (b) a refuge of the RSPCA or Cat Haven; or
  - (c) a veterinary clinic or veterinary hospital.
- (3) For the purpose of calculating the number of cats at a premises pursuant to subclause (1), cats under 6 months of age are not to be included.

### 2.2 Application for permit

- (1) Applications to the local government for a permit to be issued pursuant to clause 2.1(1) are to be —

- (a) made in writing in a form approved by the local government;
  - (b) made by the occupier of the premises for which the permit is sought;
  - (c) where the applicant is not the owner of the premises, an application must include the written consent of all property owners; and
  - (c) be accompanied by such fee as may be determined by the local government.
- (2) In determining an application for a permit pursuant to subclause (1) the local government may consider such matters as it deems appropriate and may request the applicant —
- (a) consult with nearby landowners and/or occupiers;
  - (b) advise nearby landowners and/or occupiers 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; or
  - (c) provide such further or other information as deemed necessary in order for it to make a determination.

### **2.3 Decision on application**

- (1) Upon receiving an application for a permit pursuant to clause 2.2(1), the local government may —
- (a) approve the application for a permit subject to the conditions specified at clause 2.4(1); or
  - (c) refuse the application for a permit.
- (2) If the local government approves an application under subclause (1), 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), it shall advise the applicant accordingly in writing as to the reasons why it was not granted.

### **2.4 Conditions**

- (1) Every permit issued by the local government pursuant to clause 2.2(1) are 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;
  - (e) persons undertaking the breeding of cats are to keep records of purchases/transfer of kittens for two years (including details of the buyer's name, address and the microchip number);
  - (f) premises may be inspected by the local government; and



- (g) such further conditions as the local government considers appropriate, including but not limited to the maximum number of cats permitted to be kept at the premises.
- (2) The holder of a permit issued by the local government pursuant to clause 2.2(1) shall comply with all conditions specified by the local government in relation to such permit.
- (3) The local government may revoke a permit in the event the permit holder fails to comply with a condition stipulated in a permit issued.

## **2.5 Duration of a permit**

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

- (a) upon revoking by the local government; or
- (b) upon the permit holder ceasing to reside at the premises to which the permit relates.

## **2.6 Permit not transferable**

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

## **2.7 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.

# **PART 3 — ABANDONMENT OF CATS**

## **3.1 Abandonment of cats**

- (1) An owner of a cat, or any other person liable for the control of a cat, shall not abandon such cat.
- (2) For the purposes of subsection (1), delivering a cat into the custody of an authorised person shall not be regarded as having abandoned a cat.

# **PART 4 — NUISANCE CATS**

## **4.1 Cat creating a nuisance**

- (1) The person liable for the control of a cat shall prevent the cat from creating a nuisance to another person or exposing another person to health and/or safety risks.
- (2) For the purpose of subclause (1), the term nuisance includes —
  - (a) an activity or condition which causes an unreasonable interference with the use and enjoyment of a person in their ownership or occupation of land; or
  - (b) interference which causes material damage to land or other property on the land affected by the interference.
- (3) Where, in the opinion of an authorised person, a cat is creating a nuisance, the local government may give written notice to a person liable for the control of such cat

requiring that person to abate the nuisance within the timeframe specified in such notice.

- (4) 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.
- (5) A person given a notice to abate the nuisance shall comply with the notice within the period specified in the notice.
- (6) An authorised officer may seize any cat pursuant to section 27 of the Act for non-compliance by a person liable for the control of a cat with the requirements of a notice issued pursuant to subclause (3).

## **PART 5 — CONTROL OF CATS ON PRIVATE PROPERTIES**

### **5.1 Cats to be confined**

- (1) An occupier of a premises on which a cat is kept must —
  - (a) cause the premises on which the cat is kept to be fenced in a manner capable of confining the cat;
  - (b) ensure the fence or enclosure used to confine the cat and every gate or door in the fence or enclosure is of a type, height and construction which having regard to the breed, age, size and physical condition of the cat is capable of preventing the cat at all times from passing over, under or through it;
  - (c) ensure that every gate or door in the fence or enclosure is kept closed at all times when the cat is on the premises (unless the gate is temporarily opened in a manner that ensures that the cat remains confined) and is fitted with:
    - (i) an efficient self-closing mechanism;
    - (ii) an efficient self-latching mechanism attached to the inside of the gate or door; and
    - (iii) a mechanism which enables the gate or door to be permanently locked;
  - (d) maintain the fence or enclosure and all gates and doors in the fence or enclosure in good order and condition; and
  - (e) where no part of the premises consists of open space, yard or garden or there is no open space or garden or yard of which the occupier has exclusive use or occupation, ensure that other means exist on the premises for effectively confining the cat within the premises.
- (2) An occupier who fails to comply with subclause (1), commits an offence.
- (3) Where a cat is not contained on a property, the local government may give written notice to person liable for the control of a cat, requiring that person to contain the cat on the property and within the timeframe specified in the notice.
- (4) When a notice is issued to contain a cat on a property, the notice remain in force for the period specified on the notice or until the withdrawn by the local government.

- (5) A person issued a notice to contain a cat on a property must comply with such notice within the time period specified on the notice.

## **PART 6 — DESTRUCTION OF CATS**

### **6.1 Destruction of cats**

- (1) An owner of a cat may request the local government to destroy the cat pursuant to section 49(1)(b) of the Act.
- (2) Where an owner requests a cat be destroyed, the owner must —
- (a) complete and sign a form of authorisation showing:
    - (i) the name and residential address of the owner making the request;
    - (ii) a description of the cat including its breed, colour, sex and age;
    - (iii) the reason for destruction; and
  - (b) provide evidence to the satisfaction of the local government that the person making the request is the owner of the cat.
- (3) The local government may charge an owner a fee in respect of the destruction of a cat under subclause (2) and the local government from time to time shall determine the fee.

## **PART 7 — FEES, CHARGES AND COSTS**

### **7.1 Fees, charges and costs**

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

- (a) the charges to be levied under section 31(1)(a) of the Act relating to the removing and impounding of a cat;
- (b) the charges to be levied under section 31(1)(b) of the Act relating to keeping and caring for a cat;
- (c) the costs incurred by the operator of a cat management facility under section 31(1)(c) of the Act for the microchipping of a cat prior to release if so required under section 33 of the Act;
- (d) the cost incurred by the operator of a cat management facility under section 31(1)(d) of the Act for the sterilisation of a cat if so required under section 33 of the Act; and
- (e) the costs of the destruction and the disposal of a cat under section 34 of the Act.

## **PART 8 — ENFORCEMENT**

### **8.1 Penalties**

- (1) A person who fails to comply with or who contravenes any provision of this local law commits an offence and is liable to a maximum penalty of not less than \$200 and not



exceeding \$1,000 and, if the offence is a continuing offence, a maximum daily penalty of \$500.

## **8.2 Prescribed offences**

- (1) An offence against any provision of this local law is a prescribed offence for the purposes of section 62(1) of the Act.
- (2) The amount appearing in the final column of Schedule 1, directly opposite a prescribed offence in that Schedule, is the modified penalty for that prescribed offence.
- (3) For the purposes of guidance only, before issuing an infringement notice to a person in respect of the commission of a prescribed offence, an authorised person should be satisfied that:
  - (a) the commission of the prescribed offence is a relatively minor matter; and
  - (b) only straightforward issues of law and fact are involved in determining whether the prescribed offence was committed, and the facts in issue are readily ascertainable.

## **8.3 Form of notices**

- (1) The form of an infringement notice is Form 6 in the *Cat Regulations 2012*, Schedule 1.
- (2) The form of withdrawal of the infringement notice is Form 7 in the *Cat Regulations 2012*, Schedule 1.

## **8.4 Serving of infringement notices**

An infringement notice served under section 62 of the Act or this local law may be given to a person by way of the following:

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

**Schedule 1**  
**Prescribed Offences**

[clause 8.2(2)]

<b>Item No</b>	<b>Offence</b>	<b>Nature of offence</b>	<b>Modified penalty</b> <b>\$</b>
1	2.1(1)	Exceeding maximum number of cats at a premises	200
2	2.4(2)	Failure to comply with a permit condition	200
3	3.1(1)	Abandonment of a cat	200
4	4.1(1)	Cat causing a nuisance	200
5	4.1(5)	Failure to comply with a notice	200
6	5.1(2)	Failure to confine	200

Dated this

day of

2021

The Common Seal of the )  
City of Kwinana was hereunto )  
affixed in the presence of : )

\_\_\_\_\_  
Carol Adams  
Mayor

\_\_\_\_\_  
Wayne Jack  
Chief Executive Officer