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CAT ACT 2011

LOCAL GOVERNMENT ACT 1995

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**SHIRE OF DARDANUP**

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**KEEPING AND CONTROL OF  
CATS LOCAL LAW 2014**



**CAT ACT 2011  
LOCAL GOVERNMENT ACT 1995**

SHIRE OF DARDANUP

**KEEPING AND CONTROL OF CATS LOCAL LAW 2014**

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**CAT ACT 2011  
LOCAL GOVERNMENT ACT 1995**

SHIRE OF DARDANUP

**KEEPING AND CONTROL OF CATS LOCAL LAW 2014**

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 Dardanup resolved on 13 August 2014 to make the following local law.

**PART 1—PRELIMINARY**

**1.1 Citation**

This local law may be cited as the *Shire of Dardanup Keeping and Control of Cats Local Law 2014*.

**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 appointed 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; or
- (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;

**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.

**keeper** in relation to a cat means of any the following persons—

- (a) the owner of the cat as defined in the Act;
- (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;
- (e) a person who occupies any premises in which a cat is ordinarily kept or ordinarily permitted to live;
- (f) a permit holder of a permit which relates to the cat;
- (g) the holder of an exemption issued in relation to the cat;

**local government** means the Shire of Dardanup;

**nuisance** means behaviour that includes where a cat—

- (a) excretes or urinates on premises being premises where the cat is not normally resident;
- (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; or
- (d) interference which causes material damage to land or other property on the land affected by the interference; or
- (e) is, or is likely to be, injurious or dangerous to the health of any person or domestic or Australian indigenous animal.

**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.

**public place** includes any place to which the public may lawfully have access;

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

## PART 2—CONTROL OF CATS

### 2.1 Cats in public places

- (1) A cat shall not be in a public place unless the cat is, in the opinion of an authorised person, under effective control;
- (2) If a cat is at any time in a public place in contravention of clause 2.1 (1)—
  - (a) the keeper of the cat commits an offence unless the person establishes a defence under section 6.4; 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 unless—
  - (a) consent to its being there has been given by the occupier, or a person apparently authorised to consent on behalf of the occupier; and
  - (b) it is under effective control.
- (2) If a cat is at any time in a place in contravention of clause 2.2 (1)—
  - (a) the keeper of the cat commits an offence unless the person establishes a defence under section 6.4; and
  - (b) an authorised person may seize and impound the cat and deal with the cat pursuant to the Act.

## PART 3—PERMITS FOR KEEPING CATS

### 3.1 Interpretation

In this Part, and for the purposes of applying the definition of “cat management facility” in Part 3—**cat** does not include a cat less than 6 months old.

### 3.2 Cats for which 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 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 animal welfare organisation;
  - (b) an animal pound which has been approved by the local government;
  - (c) a veterinary surgery;
  - (d) a pet shop; or
  - (e) 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;
- (c) accompanied by the plans of the 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 premises, where the occupier is not the owner of the premises to which the application relates;
- (e) 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 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 environment 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) 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), 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.

### 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 registered under 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) The permit holder who fails to comply with a condition of a permit commits an offence.

### 3.8 Duration of permit

Unless otherwise specified in a condition on a permit, a permit commences on the date of issue and is valid for a period of 12 months from the date of issue unless and until—

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

### 3.9 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.

### 3.10 Permit not transferable

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

## PART 4—MISCELLANEOUS

### 4.1 Giving of a notice

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

- (a) personally;
- (b) by registered 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 Objection 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 to or appeal against the decision under Division 1 of Part 9 of the *Local Government Act 1995*.

## PART 6—OFFENCES, DEFENCE 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 unless the person establishes a defence under section 6.4.

(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.

### 6.2 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.

### 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 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*.

### 6.4 Defence

It is a defence to a charge of an offence under section 2.1(2)(a), 2.2(2)(a) or 6.1(1) if the person charged satisfies the court—

- (1) in the case of any person, that he took all reasonable precautions and exercised all due diligence to avoid the contravention; or
- (2) in the case of the occupier of premises where the cat is ordinarily kept or ordinarily permitted to live, that—
  - (a) he has fulfilled the requirements of paragraph (1); or
  - (b) that at the material time the cat was in fact owned by some other person (whom he shall identify) over the age of 18 years; or
- (3) in the case of the owner or the registered owner, that—
  - (a) he fulfilled the requirements of paragraph (1); or
  - (b) that at the material time the cat was in the possession or control of some other person without his consent, express or implied.



**Schedule 1—Additional conditions applicable to particular permits**

[Clause 3.2]

**A. Permit to keep 3 or more 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 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) 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) No sick or ailing cat to be 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—Offences in respect of which a modified penalty applies**

[Clause 6.2]

<b>Item Number</b>	<b>Clause Number</b>	<b>Nature of Offence</b>	<b>Modified Penalty</b>
1	2.1(1)	Cat in public place	\$250
2	2.2(1)	Cat in any place that is not a public place	\$250
3	3.2(1)	Keeping of 3 or more cats/cat management facility on premises without permit	\$250
4	3.7(3)	Failure to comply with a condition of a permit	\$250

Dated: 13 August 2014.

The Common Seal of the Shire of Dardanup was affixed in the presence of—

Cr MICHAEL T. BENNETT, Shire President.  
Mr MARK L. CHESTER, Chief Executive Officer.