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LOCAL GOVERNMENT ACT 1995
CAT ACT 2011

SHIRE OF CHITTERING

CATS LOCAL LAW 2015

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CAT ACT 2011**

SHIRE OF CHITTERING

CATS LOCAL LAW 2015

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LOCAL GOVERNMENT ACT 1995
CAT ACT 2011

SHIRE OF CHITTERING

CATS LOCAL LAW 2015

Under the powers conferred by the *Cat Act 2011* and the *Local Government Act 1995* and by all other powers enabling it, the Council of the Shire of Chittering resolved on 28 October 2015 to make the following Local Law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Chittering Cats Local Law 2015*.

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 Objects

The objects of this local law are to—

- (a) Control the number of cats kept on premises;
- (b) Promote responsible cat ownership; and
- (c) Reduce the nuisance to the community and the environment caused by cats.

1.5 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 all or any of the functions conferred on an authorised person under this local law;

cat means any member of species *Felis Catus* (domestic cat) or a hybrid of that species;

cat management facility has the meaning given to it in the Act;

cattery means any premises where more than 2 cats over the age of 6 months are kept, boarded, trained or bred temporarily, usually for profit and where the occupier of the premises is not the ordinary keeper 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;

keeper in relation to a cat means any of 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 permitted to live and who has care and control of the cat;

- (f) a permit holder of a permit which relates to the cat; or
- (g) the holder of an exemption issued in relation to the cat;

grouped dwelling 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 Biodiversity Strategy means the Shire of Chittering Local Biodiversity Strategy;

local government means the Shire of Chittering;

microchip has the meaning given to it in the Act;

multiple dwelling 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 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;
- (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 issued by the local government under clause 3.6;

premises includes—

- (a) any land (whether or not vacant) and any improvements used for any purpose;
- (b) any part of any building in separate ownership or separate occupation, or any unit, flat, town house, duplex, apartment or group or multiple dwelling (whether permanent or temporary nature), industrial or business; and
- (c) a vehicle;

public place includes any place to which the public lawfully has access;

Regulations means the *Cat (Uniform Local Provisions) Regulations 2013*; and *Cat Regulations 2012*

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

Schedule means a schedule to this local law;

Town Planning Scheme means a Town Planning Scheme of the local government made under the *Planning and Development Act 2005*, or a Town Planning Scheme which was made under the *Town Planning and Development Act 1928*; and

single dwelling means a house that stands alone on its own parcel of land.

PART 2—CONTROL OF CATS

2.1 Cats in other places

A cat shall not be in any prohibited place as identified in Schedule 1.

PART 3—PERMITS FOR KEEPING CATS

3.1 Interpretation

In this Part, and for the purposes of applying the definition of “cattery” in clause 3.2—

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 more than 2 cats on any premises in accordance with a valid permit;
 - (b) to use any premises as a cattery; or
 - (c) to keep 1 or more cats in a Fauna Protection Buffer Zone as per Schedule 2.
- (2) A permit is not required under subclause (1) if the premises concerned are—
 - (a) a refuge of the RSPCA or any other registered animal welfare organisation; or
 - (b) a cat management facility which has been approved by the local government; or
 - (c) a veterinary surgery;

3.3 Application for permit

An application for a permit under clause 3.2 shall be—

- (a) made in writing 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 a brief reason and justification for the request;
- (d) accompanied by the plans of the premises to which the application relates to the specification and satisfaction of the local government;
- (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 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 Town Planning 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 a 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 environment 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 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) The local government may specify the extent of the consultation with nearby residents as specified in clause 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 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 comply with the requirements of the Act;
- (b) each cat shall be contained on the premises unless under the control of a person (keeper);
- (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) the permit holder shall not substitute or replace any cat once that cat is permanently removed from the premises as per those conditions contained in Schedule 3.

(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 Compliance with conditions of permit

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

Penalty: \$1000 and a daily penalty of \$100.

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 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.

3.10 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 Permit to be kept at the premises and available for view

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

PART 4—CAT RESTRICTED AREAS—FAUNA PROTECTION BUFFER ZONES**4.1 Designation of fauna protection buffer zones**

(1) The local government may designate land as a Cat Restricted Area—Fauna Protection Buffer Zone by stating a description of the land in Schedule 2.

- (a) The local government shall make available to the public the list of lands designated as Cat Restricted Areas after consideration of any submissions received under subclause 4.1 (3).
- (2) In designating land for the purposes of section 4.1 the local government may have regard to the following matters in relation to the land—
 - (a) the proximity of the land to any other land that has been recognised by any authority as having Fauna of Local, Regional or State significance, or to which section 5 of the *Conservation and Land Management Act 1984*, applies;
 - (b) the nature of the fauna habitat on any nearby public place whether there are any artificial or natural barriers between the land and the land described in (a) above; and
 - (c) such other matters which the local government considers relevant.
- (3) (a) The local government shall not designate a place or area to be a Cat Restricted Area without first giving Local Public Notice of its intention to designate a place or area as a Cat Restricted Area and considering any submissions received in response to the Local Public Notice; and
- (b) The local government shall publish an up to date list of lands or areas specified as Cat Restricted Areas in a Local Public Notice after the consideration of any submissions received.

PART 5—CAT PROHIBITED AREAS**5.1 Designation of Cat Prohibited Areas**

(1) The local government may designate land as a Cat Prohibited Area by stating a description of the land in Schedule 1.

- (a) The local government shall make available to the public the list of lands designated as Cat Prohibited Areas after consideration of any submissions received under subclause 5.1 (3).
- (2) In designating land for the purposes of section 5.1 the local government shall have regard to clause 2.1.
- (3) (a) 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 the Local Public Notice; and
- (b) The local government shall publish an up to date list of lands or areas specified as Cat Prohibited Areas in a Local Public Notice after the consideration of any submissions received.

PART 6—MISCELLANEOUS**6.1 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 7—OBJECTIONS AND APPEALS**7.1 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 8—OFFENCES, DEFENCE AND PENALTIES**8.1 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.

8.2 Prescribed offences

(1) An offence against a clause specified in Schedule 4 is a prescribed offence for the purposes of 30 of the *Cat Regulations 2012*.

(2) The amount appearing directly opposite each such offence is the modified penalty in relation to that offence.

8.3 Forms

(1) The issue of infringement notices, their withdrawal, objections, warrants and payment of modified penalties is dealt with under the *Cat Regulations 2012*.

(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*.

Schedule 1**CAT PROHIBITED AREAS**

(refer clause 2.1)

Reserve Land

All Conservation and Parks and Recreation reserved land designated under the *Transfer of Land Act 1893* and *Shire of Chittering Town Planning Scheme No. 6*

Lot No / Rural No	Road	Location

Note—

- The list is correct at the time of publication in the *Gazette*.
- Members of the public may inspect or obtain a copy of the Local Public Notice containing an up-to-date list of the specified lands and areas designated as Cat Prohibited Areas, in accordance with this local law, from the Shire of Chittering's Administration Centre or public library during normal office hours.

Schedule 2**CAT RESTRICTED AREAS—FAUNA PROTECTION BUFFER ZONES**

(refer clause 4.1)

Conservation/Preservation Areas

All land identified for the purposes of conservation and preservation of vegetation as designated under the *Shire of Chittering Town Planning Scheme No 6*, *Shire of Chittering Local Planning Strategy* and any endorsed Structure Plan

Lot No / Rural No	Road	Location

Note—

- The list is correct at the time of publication in the *Gazette*.
- Members of the public may inspect or obtain a copy of the Local Public Notice containing an up-to-date list of the specified lands and areas designated as Cat Restricted Areas, in accordance with this local law, from the Shire of Chittering's Administration Centre or public library during normal office hours.

*Schedule 3***ADDITIONAL CONDITIONS APPLICABLE TO PARTICULAR PERMITS****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; 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) 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 4***MODIFIED PENALTIES**
(refer clause 8.2)

Item Number	Clause Number	Nature of Offence	Modified Penalty
1	2.2(1)	Cat in any prohibited place	\$200
2	3.2(1)	Keeping of 3 or more cats/cattery on premises without permit	\$200
3	3.7(3)	Failure to comply with a condition of a permit	\$200