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CITY OF CANNING

LOCAL GOVERNMENT ACT 1995

FENCING LOCAL LAW 2021

WASTE AVOIDANCE AND RESOURCE RECOVERY ACT 2007
LOCAL GOVERNMENT ACT 1995

WASTE LOCAL LAW 2021

CAT ACT 2011
LOCAL GOVERNMENT ACT 1995

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CITY OF CANNING

FENCING LOCAL LAW 2021

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LOCAL GOVERNMENT ACT 1995

CITY OF CANNING

FENCING LOCAL LAW 2021

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the City of Canning resolved on 17 August 2021 to make the following local law.

PART 1—PRELIMINARY

1.1 Title

This local law may be cited as the *City of Canning Fencing Local Law 2021*.

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 Repeal

Part XIV of the *City of Canning Consolidated Local Laws*, published in the *Government Gazette* on 31 March 2000, is repealed.

1.5 Terms used

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

Act means the *Dividing Fences Act 1961*;

applicant means a person who makes an application for approval under this local law;

approval means an approval under Part 4;

AS or AS/NZS means an Australian or Australian/New Zealand Standard as published by Standards Australia and as amended from time to time;

authorised person means a person appointed under section 9.10 of the *Local Government Act 1995* to perform any of the functions of an authorised person under this local law;

barbed wire fence means a wire or strand of wires having small pieces of sharply pointed wire twisted around it at short intervals;

boundary fence has the meaning in the Act;

building permit means a permit granted under section 20 of the *Building Act 2011*;

CEO means the Chief Executive Officer of the local government;

Commercial Lot means a lot where a commercial use—

(a) is or may be permitted under a local planning scheme; and

(b) is or will be the predominant use of the lot;

dangerous, in relation to a fence, means—

(a) an electrified fence other than a fence approved by the local government under this local law or erected and maintained in accordance with this local law;

(b) a fence containing barbed wire other than a fence erected and maintained in accordance with this local law;

(c) a fence containing exposed broken glass, asbestos fibre, razor wire or any other potentially harmful projection or material;

(d) a fence which is likely to collapse or fall, or part of which is likely to collapse or fall, from any cause; or

(e) a fence that has become dangerous through lack of maintenance or repair;

district means the district of the local government;

dividing fence has the meaning in the Act;

electrified fence means a fence carrying or designed to carry an electric charge;

fence means any structure, not including a retaining wall, used or functioning as a barrier, irrespective of where it is located and includes any gate;

front boundary means the boundary line between a lot and the thoroughfare on which that lot abuts or, in the case of a lot abutting on more than one thoroughfare, the boundary line between the lot and the primary thoroughfare;

front setback area, in relation to a lot, means the area between the building line of the lot and the front boundary of the lot;

height, in relation to a fence, means the vertical distance between—

- (a) the top of the fence at any point; and
- (b) the ground level or, where the ground levels on each side of the fence are not the same, the higher ground level, immediately below that point;

Industrial Lot means a lot where an industrial use—

- (a) is or may be permitted under the local planning scheme; and
- (b) is or will be the predominant use of the lot;

local government means the City of Canning;

local planning scheme means a local planning scheme of the local government made under the *Planning and Development Act 2005*;

lot has the meaning in the *Planning and Development Act 2005*;

notice of breach means a notice referred to in clause 5.1;

occupier has the meaning in the *Local Government Act 1995*;

owner, has the meaning in the *Local Government Act 1995*;

planning approval means planning approval issued by the local government under a local planning scheme;

razor wire fence means a coiled strong wire with pieces of sharp cutting edges set across it at close intervals;

Residential Lot means a lot where a residential use—

- (a) is or may be permitted under the local planning scheme; and
- (b) is or will be the predominant use of the lot;

retaining wall means any structure which prevents the movement of soil, or which retains soil or structures, in order to allow ground levels of different elevations to exist adjacent to one another;

Rural Lot means a lot where a rural use—

- (a) is or may be permitted under the local planning scheme; and
- (b) is or will be the predominant use of the lot;

Schedule means a schedule to this local law;

structural engineer means a qualified engineer trained to understand and calculate the stability, strength and rigidity of built structures for buildings and non-building structures;

sufficient fence means a fence described in clause 2.1; and

thoroughfare has the meaning in the *Local Government Act 1995*, but does not include a private thoroughfare which is not under the management or control of the local government.

(2) A term that is used in this local law and is not defined in subclause (1) has the meaning in the *Local Government Act 1995* or, if not defined in the *Local Government Act 1995*, the meaning in the Act.

1.6 Fees and charges

All fees and charges applicable under this local law are to be determined by the local government from time to time in accordance with section 6.16 to 6.19 of the *Local Government Act 1995*.

1.7 Relationship with other laws

(1) In the event of any inconsistency between the provisions of a local planning scheme and the provisions of this local law, the provisions of the local planning scheme are to prevail.

(2) Nothing in this local law affects the need for compliance, in respect of a fence, with—

- (a) any relevant provisions of a local planning scheme; and
- (b) any relevant provisions that apply if a building permit is required for that fence under the *Building Act 2011* or *Building Regulations 2012*.

PART 2—SUFFICIENT FENCES

2.1 Sufficient fences

(1) Subject to clause 2.2, a person must not erect a dividing fence or a boundary fence that is not a sufficient fence.

(2) A dividing fence, or a fence lawfully erected prior to this local law coming into operation, constitutes a sufficient fence.

(3) Subject to subclauses (4) and (5), a sufficient fence on a—

- (a) Residential Lot is a dividing fence or a boundary fence erected and maintained in accordance with the specifications and requirements of Schedule 2;

- (b) Commercial Lot or an Industrial Lot is a dividing fence or a boundary fence erected and maintained in accordance with the specifications and requirements of Schedule 3; and
 - (c) Rural Lot is a dividing fence or a boundary fence erected and maintained in accordance with the specifications and requirements of Schedule 4.
- (4) Where a fence is erected on or near the boundary between a—
- (a) Residential Lot and an Industrial Lot or a Commercial Lot, a sufficient fence is a dividing fence erected and maintained in accordance with the specifications and requirements of Schedule 2;
 - (b) Residential Lot and a Rural Lot, a sufficient fence is a dividing fence erected and maintained in accordance with the specifications and requirements of Schedule 2; and
 - (c) Commercial or Industrial Lot and a Rural Lot, a sufficient fence is a dividing fence erected and maintained in accordance with the specifications and requirements of Schedule 3.
- (5) Unless the local government determines otherwise, a sufficient fence on a boundary between lots other than those specified in subclause (4) is a dividing fence erected in accordance with the specifications and requirements of Schedule 2.

2.2 Approval of other fences

The local government may approve the erection or maintenance of a dividing fence which is not a sufficient fence where all of the owners of the lots to be separated by the dividing fence make an application for approval for that purpose.

PART 3—FENCING MATERIALS AND REQUIREMENTS

3.1 Gates in fences

A person must not erect a gate in a fence which does not—

- (a) open into the lot; or
 - (b) open by sliding parallel and on the inside of the fence, which it forms part of, when closed,
- unless with the written approval of the local government.

3.2 Maintenance of fences

An owner of a lot on which a fence is erected must maintain the fence in good condition so as to prevent it from becoming dangerous, dilapidated, or unsightly to the amenity of the locality.

3.3 Fencing materials requiring written approval

- (1) A person must not erect a barbed wire fence or an electrified fence, on a Residential Lot or Commercial Lot.
- (2) A person must not erect a barbed wire fence or an electrified fence on an Industrial Lot or a Rural Lot, without first obtaining the written approval of the local government.
- (3) The local government shall not approve an application for an electrified fence under subclause (2)—
 - (a) in respect of a lot which abuts a Residential Lot;
 - (b) unless the electrified fence complies with AS/NZS 3016:2002 Electrical installations—Electric security fences; and
 - (c) unless provision is made so as to enable the fence to be rendered inoperable during the hours of business operations, if any, on the lot where it is erected.

3.4 Prohibited fencing materials

In erecting a fence a person must not use—

- (a) broken glass or any other potentially harmful projections or material;
- (b) asbestos fibre;
- (c) material that is likely to collapse or fall, or part of which is likely to collapse or fall from any cause; or
- (d) razor wire.

PART 4—APPROVALS

4.1 Application for approval

- (1) Where a person is required to obtain the approval of the local government under this local law, and approval is not required in the form of planning approval or a building permit, that person must apply for approval in accordance with subclause (2).
- (2) An application for approval under this local law must—
 - (a) be in the form determined by the local government;
 - (b) be signed by the applicant and the owner of the lot;
 - (c) provide the information required by the form; and
 - (d) be forwarded to the CEO together with any fee determined by the local government under sections 6.16 to 6.19 of the *Local Government Act 1995*.
- (3) Before determining an application for approval, the local government may require the applicant to provide additional information reasonably related to the application.

(4) The local government may refuse to consider an application for approval which is not in accordance with subclauses (2) and (3).

4.2 Decision on application for approval

- (1) The local government may, in respect of an application for approval—
- (a) grant the application, unconditionally or subject to any conditions it considers appropriate; or
 - (b) refuse to grant the application.
- (2) In determining whether to grant its approval under subclause (1), the local government may consider whether the erection or retention of the fence would have an adverse effect on—
- (a) the safe or convenient use of any land;
 - (b) the safety or convenience of any person; and
 - (c) the visual amenity of the locality.
- (3) If the local government grants the application subject to conditions, those conditions may relate to matters such as—
- (a) the location, type and construction of a fence;
 - (b) the height of a fence; and
 - (c) in the case of an electric fence, the operating time and duration.
- (4) If the local government grants an application for approval, it is to issue to the applicant an approval in the form determined by the CEO.
- (5) If the local government refuses to grant an application for approval, it must give written notice of that refusal to the applicant.

4.3 Compliance with approval

Where an application for approval has been granted, the applicant and the owner or occupier of the lot to which the approval relates, must comply with the terms and any conditions of that approval.

4.4 Duration of approval

Unless otherwise stated in the form of approval, an approval granted under this local law—

- (a) runs with the lot to which it relates;
- (b) may be relied on by any subsequent occupier or owner of the lot; and
- (c) may be enforced by the local government against a subsequent occupier or owner of the lot.

4.5 Revocation of an approval

The local government may revoke an approval if—

- (a) the owner (or the occupier with the owner's written consent) requests the local government to do so;
- (b) the fence to which the approval relates is being, or has been, demolished and is not proposed to be, or has not been, rebuilt for a period of at least 6 months;
- (c) the circumstances are such that the approval could not be issued under this local law; or
- (d) the owner or occupier fails to comply with a condition of the approval or breaches a provision of this local law in respect of the fence that is the subject of the approval.

PART 5—NOTICES

5.1 Notice of breach

- (1) Where a breach of any provision of this local law has occurred in relation to a fence on a lot, the local government or an authorised person may give a notice in writing (notice of breach) to the owner of that lot.
- (2) A notice of breach is to—
- (a) specify the provision of this local law which has been breached;
 - (b) specify the particulars of the breach; and
 - (c) state that the owner is required to remedy the breach within the time specified in the notice.
- (3) If an owner fails to comply with a notice of breach, the local government may (by its employees, agents or contractors) enter on the lot to which the notice relates and remedy the breach, and may recover the expenses of so doing from the owner of the lot in a court of competent jurisdiction.
- (4) The provisions of this clause are subject to section 3.25 and item 12 of Division 1 of Schedule 3.1 of the *Local Government Act 1995* and any entry on to land is to be in accordance with Part 3, Division 3 of that Act.

PART 6—ENFORCEMENT

6.1 Offences

- (1) A person who—
- (a) fails to do anything required or directed to be done under this local law; or
 - (b) fails to comply with the requirements of a notice of breach; or
 - (c) does anything which under this local law that person is prohibited from doing,
- commits an offence.

(2) A person who commits an offence under this local law is liable to a maximum penalty of \$5,000 and a maximum daily penalty of \$500 in respect of each day or part of a day during which the offence has continued.

6.2 Prescribed offences

(1) An offence against a clause specified in Schedule 1 is a prescribed offence for the purposes of section 9.16(1) of the *Local Government Act 1995*.

(2) The amount appearing in the final column of Schedule 1 directly opposite a clause specified in that Schedule is the modified penalty for an offence against that clause.

6.3 Form of notices

For the purposes of this local law—

- (a) the form of the infringement notice referred to in sections 9.16 and 9.17 of the *Local Government Act 1995* is to be in the form of Form 2 of Schedule 1 of the *Local Government (Functions and General) Regulations 1996*, and
- (b) the form of the withdrawal of infringement notice referred to in section 9.20 of the *Local Government Act 1995* is to be in the form of Form 3 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.

PART 7—OBJECTIONS AND REVIEW

7.1 Objections and review

When the local government makes a decision under this local law, the provisions of Part 9 Division 1 of the *Local Government Act 1995*, and regulation 33 of the *Local Government (Functions and General) Regulations 1996*, apply to that decision.

SCHEDULE 1—PRESCRIBED OFFENCES

[Clause 6.2(1)]

Item No.	Clause No.	Nature of offence	Modified Penalty
1	2.1(1)	Erect a fence which is not a sufficient fence	\$250
2	3.1(a)	Erect a gate in a fence not opening into the lot	\$250
3	3.1(b)	Erect a gate in a fence not sliding parallel and inside a fence	\$250
4	3.2	Failure to maintain a fence in good condition to prevent the fence becoming dangerous, dilapidated or unsightly	\$250
5	3.3(1)	Erect a barbed wire or electrified fence on a Residential Lot or Commercial Lot	\$250
6	3.3(2)	Erect a barbed wire fence or electrified fence on an Industrial Lot or a Rural Lot without written approval	\$250
7	3.4	Use of prohibited fencing materials	\$250
8	4.3	Failure to comply with terms and any conditions of approval	\$250
9	6.1(1)(b)	Failure to comply with a notice of breach	\$300

SCHEDULE 2—SPECIFICATIONS FOR A SUFFICIENT FENCE ON A RESIDENTIAL LOT

[clause 2.1(3)(a)]

Each of the identified categories in this Schedule, with minimum and maximum specifications where stated, is a sufficient fence on a Residential Lot—

1. A timber fence, a fence constructed of corrugated fibre reinforced pressed cement or steel sheeting or other non-permeable materials designed specifically for use as a fence, which satisfies the following specifications—
 - (a) the height of the fence except with respect to the front setback area to be a minimum 1800mm and a maximum of 2200mm;
 - (b) the height of the fence within the front setback area not to exceed 1200mm in height without the written approval of the local government; and
 - (c) construction to be in accordance with the manufacturer's specifications.
2. A fence constructed of masonry (including brick, stone or concrete) which satisfies the following specifications—
 - (a) the height of the fence except with respect to the front setback area, to be 1800mm;
 - (b) the height of the fence within the front setback area not to exceed 1200mm in height without the written approval of the local government;

- (c) construction to be in accordance with the AS/NZS for Masonry construction as adopted by the Building Code of Australia at the time of construction; and
- (d) certified by a structural engineer as being appropriate for the particular site and wind terrain category.

**SCHEDULE 3—SPECIFICATIONS FOR A SUFFICIENT FENCE ON A COMMERCIAL LOT
OR AN INDUSTRIAL LOT**

[clause 2.1(3)(b)]

Each of the identified categories in this Schedule, with minimum and maximum specifications where stated, is a sufficient fence on a Commercial Lot or an Industrial Lot—

1. A fence that meets the specifications in Schedule 2;
2. A fence constructed of galvanised or PVC coated non-rail link mesh, chain mesh or steel mesh which satisfies the following specifications—
 - (a) at a minimum height of 1800mm and a maximum height of 2200mm; and
 - (b) construction to be in accordance with the manufacturer's specifications.

SCHEDULE 4—SPECIFICATIONS FOR A SUFFICIENT FENCE ON A RURAL LOT

[clause 2.1(3)(c)]

Each of the identified categories in this Schedule, with minimum and maximum specifications where stated is a sufficient fence on a Rural Lot—

1. A fence that meets the specifications in Schedule 2 or Schedule 3, but to a maximum height of 1200mm;
2. A fence of post and wire construction—
 - (a) erected at a height of 1200mm;
 - (b) wire to be high tensile wire and not less than 2.5mm;
 - (c) a minimum of 5 wires to be used, generally with the lower wires spaced closer together than the higher wires so as to prevent smaller stock passing through, and connected to posts in all cases;
 - (d) posts to be of indigenous timber or other suitable material including—
 - (i) timber impregnated with a termite and fungicidal preservative;
 - (ii) standard iron star pickets; or
 - (iii) concrete;
 - (e) posts to be cut not less than 1800mm long x 50mm diameter at small end if round or 125mm x 60mm if split or sawn timber;
 - (f) posts to be set minimum 600mm in the ground and 1200mm above the ground; and
 - (g) strainer posts to be not less than 2250mm long and 150mm diameter at the small end (tubular steel to be 50mm in diameter) and to be cut from indigenous timber or other suitable material. These must be placed a minimum of 1000mm in the ground.

Dated this 20th of August 2021.

The Common Seal of the City of Canning was affixed by authority of a resolution of the Council in the presence of—

PATRICK HALL, Mayor.
STEPHEN CAIN, Chief Executive Officer.

**WASTE AVOIDANCE AND RESOURCE RECOVERY ACT 2007
LOCAL GOVERNMENT ACT 1995**

CITY OF CANNING

WASTE LOCAL LAW 2021

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WASTE AVOIDANCE AND RESOURCE RECOVERY ACT 2007
LOCAL GOVERNMENT ACT 1995

CITY OF CANNING

WASTE LOCAL LAW 2021

Under the powers conferred on it by the *Waste Avoidance and Resource Recovery Act 2007*, the *Local Government Act 1995* and all other enabling powers, the Council of the City of Canning resolved on 17 August 2021 to make the following local law.

PART 1—PRELIMINARY

1.1 Short Title

This is the *City of Canning Waste Local Law 2021*.

1.2 Commencement

This local law comes into operation 14 days after the day on which it is published in the *Government Gazette*.

1.3 Application

This local law applies throughout the district.

1.4 Repeal

The following local laws are repealed—

- (a) Part 4, *City of Canning Health Local Laws 1998* published in the *Government Gazette* on 16 December 1998; and
- (b) Part VIII Operation of Refuse and Recycling Facility of *City of Canning Consolidated Local Laws*, published in the *Government Gazette* on 31 March 2000.

1.5 Meaning of terms used in this local law

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

authorised person means a person appointed under section 9.10 of the *Local Government Act 1995* to perform any of the functions of an authorised person under this local law;

carriageway has the meaning in the *Road Traffic Code 2000*;

collectable waste means local government waste that is not—

- (a) liquid refuse;
- (b) liquid waste; or
- (c) non-collectable waste;

collectable waste receptacle means a receptacle for the deposit and collection of collectable waste that is—

- (a) a recycling waste receptacle;
- (b) a general waste receptacle; or
- (c) an organic waste receptacle;

collection, when used in relation to a receptacle, means the collection and removal of collectable waste from the receptacle by the local government or its contractor;

collection day means the day determined by the local government for the collection of collectable waste in the district or a part of the district;

collection time means the time on the collection day determined by the local government for the collection of collectable waste in the district or a part of the district;

costs of the local government include administrative costs;

Council means the council of the local government;

district means the district of the local government;

general waste receptacle means a receptacle for the deposit and collection of collectable waste;

LG Act means the *Local Government Act 1995*;

LG Regulations means the *Local Government (Functions and General) Regulations 1996*;

local government means the City of Canning;

local government waste has the meaning in the WARR Act;

non-collectable waste has the meaning in Schedule 1;

occupier, in relation to premises, means any or all of the following—

- (a) a person by whom or on whose behalf the premises are actually occupied; or
- (b) a person having the management or control of the premises;

organic waste means waste that decomposes readily, such as garden waste or food waste;

organic waste receptacle means a receptacle for the deposit and collection of organic waste;

owner has the meaning in the LG Act;

public place includes a place to which the public ordinarily have access, whether or not by payment of a fee;

receptacle, in relation to premises, means a receptacle—

- (a) that has been supplied for the use of the premises by the local government or its contractor, or which has otherwise been approved by the local government; and
- (b) the waste from which is collected and removed from the premises by the local government or its contractor;

recycling waste receptacle means a receptacle for the deposit and collection of recycling waste;

recycling waste means—

- (a) paper and cardboard;
- (b) plastic containers comprised of polyethylene terephthalate or high density polyethylene;
- (c) glass containers;
- (d) steel containers;
- (e) aluminium containers;
- (f) liquid paper board; and
- (g) any other waste determined by the local government to be recycling waste;

Schedule means a schedule to this local law;

specified means specified by the local government or an authorised person, as the case may be;

street alignment means the boundary between the land comprising a street and the land that abuts the street;

WARR Act means the *Waste Avoidance and Resource Recovery Act 2007*;

waste has the meaning in the WARR Act;

waste facility means a waste facility, as defined in the WARR Act, that is operated by the local government; and

waste service has the meaning in the WARR Act.

(2) Where, in this local law, a duty or liability is imposed on an owner or occupier, or on an owner and occupier, the duty or liability is taken to be imposed jointly and severally on each of the owners or occupiers.

1.6 Local public notice of determinations

Where, under this local law, the local government has a power to determine a matter—

- (a) local public notice, under section 1.7 of the LG Act, must be given of the matter determined;
- (b) the determination becomes effective only after local public notice has been given;
- (c) the determination remains in force for the period of one year after the date that local public notice has been given under paragraph (a);
- (d) after the period referred to in paragraph (c), the determination continues in force only if, and for so long as, it is the subject of local public notice, given annually, under section 1.7 of the LG Act; and
- (e) the determination must be recorded in a publicly accessible register of determinations that is maintained by the local government.

1.7 Rates, fees and charges

The local government's powers to impose rates, fees and charges in relation to waste services are set out in sections 66 to 68 of the WARR Act and sections 6.16 and 6.17 of the LG Act.

1.8 Power to provide waste services

The local government's power to provide, or enter into a contract for the provision of, waste services is dealt with in section 50 of the WARR Act.

PART 2—LOCAL GOVERNMENT WASTE

2.1 Supply of receptacles

(1) The local government is to supply, for the use of each premises that are, or are capable of being, occupied or used for residential purposes, one or more receptacles for the collection and removal, from those premises, of collectable waste.

- (2) The owner of premises to which subclause (1) applies must—
- (a) ensure that the fee or charge (if any) imposed by the local government in relation to each receptacle is paid to the local government; and
 - (b) ensure that each receptacle is used, in respect of those premises, in accordance with this local law.

2.2 Deposit of waste in receptacles

- (1) An owner or occupier of premises must not deposit or permit to be deposited in a receptacle any non-collectable waste.
- (2) A person must not deposit waste in a receptacle that has been provided for the use of other premises without the consent of the owner or occupier of those premises.

2.3 General waste receptacles

- (1) An owner or occupier of premises must not deposit or permit to be deposited in a general waste receptacle—
- (a) where the receptacle has a capacity of 240 litres—more than 70 kilograms of collectable waste; or
 - (b) where the receptacle has any other capacity—more collectable waste than the weight determined by the local government.
- (2) Where the local government supplies recycling waste receptacles, an owner or occupier of premises must not deposit or permit to be deposited in a general waste receptacle any recycling waste.
- (3) Where the local government supplies organic waste receptacles, an owner or occupier of premises must not deposit or permit to be deposited in a general waste receptacle any organic waste.

2.4 Recycling waste receptacles

- An owner or occupier of premises must not deposit or permit to be deposited in a recycling waste receptacle—
- (a) anything other than the particular type of recycling waste for which that receptacle was provided by the local government for those premises;
 - (b) where the receptacle has a capacity of 240 litres— more than 70 kilograms of recycling waste; or
 - (c) where the receptacle has any other capacity—more recycling waste than the weight determined by the local government.

2.5 Organic waste receptacles

- An owner or occupier of premises must not deposit or permit to be deposited in an organic waste receptacle—
- (a) anything other than the particular type of organic waste for which that receptacle was provided by the local government for those premises;
 - (b) where the receptacle has a capacity of 240 litres—more than 70 kilograms of organic waste; or
 - (c) where the receptacle has any other capacity—more organic waste than the weight determined by the local government.

2.6 Direction to place or remove a receptacle

- (1) The local government or an authorised person may give a written direction to an owner or occupier of specified premises—
- (a) to place a receptacle in respect of those premises for collection; or
 - (b) to remove a receptacle in respect of those premises after collection.
- (2) The direction under subclause (1) may specify when the placement or removal is to occur, or where the receptacle is to be placed, or both.
- (3) An owner or occupier of premises must comply with a direction given under this clause.

2.7 Duties of owner or occupier

- An owner or occupier of premises must—
- (a) except for a reasonable period before and after collection time, keep each receptacle in a storage space or area that is behind the street alignment;
 - (b) take reasonable steps, if placing a receptacle for collection on the verge adjoining the premises, or other area as determined by the local government, to ensure that, within a reasonable period before collection time, each receptacle is—
 - (i) within 1 metre of the carriageway;
 - (ii) placed so that it does not unduly obstruct any footpath, cycle way, right-of-way or carriageway; and
 - (iii) facing squarely to the edge of and opening towards the carriageway,or in such other position as is approved in writing by the local government or an authorised person; and
 - (c) if the receptacle is lost, stolen, damaged or defective, notify the local government, as soon as practicable, after the event.

2.8 Exemption

- (1) An owner or occupier of premises may apply in writing to the local government for an exemption from compliance with the requirements of clause 2.7 (a) or (b).
- (2) The local government or an authorised person may grant, with or without conditions, or refuse an application for exemption from compliance under this clause.
- (3) An exemption granted under this clause must state—
 - (a) the premises to which the exemption applies;
 - (b) the period during which the exemption applies; and
 - (c) any conditions imposed by the local government or the authorised person.
- (4) An exemption granted under this clause ceases to apply—
 - (a) if the local government decides, on reasonable grounds, that there has been a failure to comply with a condition of the exemption; and
 - (b) from the date that the local government informs the owner or occupier of its decision under clause 2.8(4)(a).

2.9 Damaging or removing receptacles

A person, other than the local government or its contractor, must not—

- (a) damage, destroy or interfere with a receptacle; or
- (b) except as permitted by this local law or as authorised by the local government or an authorised person, remove a receptacle from any premises to which it was delivered by the local government or its contractor.

2.10 Verge collections

- (1) Where the local government has advertised a verge waste collection (such as a green waste, or a bulk waste, verge collection) a person, unless with and in accordance with the approval of the local government or an authorised person—
 - (a) must deposit waste only during the period of time, and in accordance with other terms and conditions, as advertised by the local government in relation to that verge waste collection; and
 - (b) must otherwise comply with those terms and conditions.
- (2) Where waste has been deposited on a verge for a verge waste collection, a person must not remove any of that waste for a commercial purpose but may remove it for any other purpose.
- (3) Except where waste is lawfully removed from a verge under this clause, a person must not disassemble or tamper with any waste deposited on a verge for a verge waste collection so as to increase the risk of harm to any person.
- (4) Clause 2.10(2) does not apply to the local government or a person engaged or contracted by the local government in relation to the verge waste collection.

PART 3—GENERAL DUTIES

3.1 Duties of an owner or occupier

An owner or occupier of premises must—

- (a) take reasonable steps to ensure that an adequate number of receptacles are provided to contain all waste which accumulates or may accumulate in or from the premises;
- (b) ensure that each receptacle is kept in good condition and repair; and
- (c) whenever directed to do so by the local government or an authorised person, thoroughly clean, disinfect, deodorise and apply a residual insecticide to each receptacle.

3.2 Removal of waste from premises

- (1) A person must not remove any waste from premises unless that person is—
 - (a) the owner or occupier of the premises;
 - (b) authorised to do so by the owner or occupier of the premises; or
 - (c) authorised in writing to do so by the local government or an authorised person.
- (2) A person must not remove any waste from a receptacle without the approval of—
 - (a) the local government or an authorised person; or
 - (b) the owner or occupier of the premises at which the receptacle is ordinarily kept.

3.3 Receptacles and containers for public use

A person must not, without the approval of the local government or an authorised person—

- (a) deposit household, commercial or other waste from any premises on or into; or
- (b) remove any waste from,

a receptacle provided for the use of the general public in a public place.

PART 4—OPERATION OF WASTE FACILITIES

4.1 Operation of this Part

This Part applies to a person who enters the waste facility.

4.2 Hours of operation

The local government may from time to time determine the hours of operation of a waste facility.

4.3 Signs and directions

- (1) The local government or an authorised person may regulate the use of a waste facility—
 - (a) by means of a sign; or
 - (b) by giving a direction to a person within a waste facility.
- (2) A person within a waste facility must comply with a sign or direction under subclause (1).
- (3) The local government or an authorised person may direct a person who commits, or is reasonably suspected by the local government or the authorised person of having committed, an offence under this clause to leave the waste facility immediately.
- (4) A person must comply with a direction under subclause (3).

4.4 Fees and charges

- (1) Unless subclause (3) applies, a person must, on or before entering a waste facility or on demand by the local government or an authorised person, pay the fee or charge as assessed by an authorised person.
- (2) An authorised person may assess the fee or charge in respect of a particular load of waste at a rate that applies to any part of that load, even if that rate is higher than the rate that would apply to any other part of the load.
- (3) Subclause (1) does not apply—
 - (a) to a person who disposes of waste in accordance with the terms of—
 - (i) a credit arrangement with the local government; or
 - (ii) any other arrangement with the local government to pay the fee or charge at a different time or in a different manner; and
 - (b) to the deposit of waste owned by the local government, or in the possession of an employee on behalf of the local government.

4.5 Depositing waste

- (1) A person must not deposit waste at a waste facility other than—
 - (a) at a location determined by a sign and in accordance with the sign; and
 - (b) in accordance with the direction of an authorised person.
- (2) The local government may determine the classification of any waste that may be deposited at a waste facility.

4.6 Prohibited activities

- (1) Unless authorised by the local government, a person must not—
 - (a) remove any waste or any other thing from a waste facility;
 - (b) deposit at a waste facility that is a landfill site any waste that is toxic, poisonous or hazardous, or the depositing of which is regulated or prohibited by any written law;
 - (c) light a fire in a waste facility;
 - (d) remove, damage or otherwise interfere with any flora in a waste facility;
 - (e) remove, injure or otherwise interfere with any fauna in a waste facility; or
 - (f) damage, deface or destroy any building, equipment, plant or property within a waste facility.
- (2) A person must not act in an abusive or threatening manner towards any person using, or engaged in the management or operation of, a waste facility.

PART 5—ENFORCEMENT**5.1 Objection and appeal rights**

Division 1 of Part 9 of the LG Act applies to a decision under this local law to grant, renew, vary or cancel—

- (a) an approval under clause 2.7(b);
- (b) an exemption under clause 2.8(2);
- (c) an approval under clause 2.9(b);
- (d) an approval under clause 2.10(1);
- (e) an authorisation under clause 3.2(1)(c);
- (f) an approval under clause 3.2(2); and
- (g) an approval under clause 3.3.

5.2 Offences

- (1) A 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 a person is prohibited from doing, commits an offence.
- (2) A 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 a further penalty not exceeding \$500 in respect of each day or part of a day during which the offence has continued.

5.3 Other costs and expenses

(1) A person who is convicted of an offence under this local law is to be liable, in addition to any penalty imposed under clause 5.2, to pay to the local government the costs and expenses incurred by the local government in taking remedial action such as—

- (a) removing and lawfully disposing of toxic, poisonous, or hazardous waste; or
- (b) making good any damage caused to a waste facility.

(2) The costs and expenses incurred by the local government are to be recoverable, as a debt due to the local government, in a court of competent civil jurisdiction.

5.4 Prescribed offences

(1) An offence against a clause specified in Schedule 2 is a prescribed offence for the purposes of section 9.16(1) of the LG Act.

(2) The amount appearing in the final column of Schedule 2 directly opposite a clause specified in that Schedule is the modified penalty for an offence against that clause.

5.5 Form of notices

(1) Where a vehicle is involved in the commission of an offence, the form of the notice referred to in section 9.13 of the LG Act is that of Form 1 in Schedule 1 of the LG Regulations.

(2) The form of the infringement notice given under section 9.16 of the LG Act is that of Form 2 in Schedule 1 of the LG Regulations.

(3) The form of the infringement withdrawal notice given under section 9.20 of the LG Act is that of Form 3 in Schedule 1 of the LG Regulations.

SCHEDULE 1—MEANING OF ‘NON-COLLECTABLE WASTE’

[Clause 1.5(1)]

non-collectable waste means—

- (a) hot or burning material;
- (b) household hazardous waste, including paint, acids, alkalis, fire extinguishers, solvents, pesticides, oils, gas cylinders, batteries, chemicals and heavy metals;
- (c) any other hazardous material, such as radioactive waste;
- (d) any explosive material, such as flares or ammunition;
- (e) electrical and electronic equipment;
- (f) hospital, medical, veterinary, laboratory or pathological substances;
- (g) construction or demolition waste;
- (h) sewage;
- (i) ‘controlled waste’ for the purposes of the Environmental Protection (Controlled Waste) Regulations 2004;
- (j) any object that is greater in length, width, or breadth than the corresponding dimension of the receptacle or that will not allow the lid of the receptacle to be tightly closed;
- (k) waste that is or is likely to become offensive or a nuisance, or give off an offensive or noxious odour, or to attract flies or cause fly breeding unless it is first wrapped in non-absorbent or impervious material or placed in a sealed impervious and leak-proof container; and
- (l) any other waste determined by the local government under section 1.7 of the LG Act to be non-collectable waste.

SCHEDULE 2—PRESCRIBED OFFENCES

[Clause 5.4]

Item No.	Clause No.	Description	Modified Penalty
1	2.1(2)(a)	Failing to pay fee or charge	\$200
2	2.1(2)(b)	Falling to ensure lawful use of a receptacle	\$200
3	2.2(1)	Depositing non-collectable waste in a receptacle	\$200
4	2.2(2)	Depositing waste in another receptacle without consent	\$200
5	2.3(1)	Exceeding weight capacity of a general waste receptacle	\$200
6	2.3(2) and (3)	Depositing unauthorised waste in a general waste receptacle	\$200
7	2.4(a)	Depositing unauthorised waste in a recycling waste receptacle	\$200

Item No.	Clause No.	Description	Modified Penalty
8	2.4(b) and (c)	Exceeding weight capacity of a recycling waste receptacle	\$200
9	2.5(a)	Depositing unauthorised waste in an organic waste receptacle	\$200
10	2.5(b) and (c)	Exceeding weight capacity of an organic waste receptacle	\$200
11	2.6(3)	Failing to comply with a direction concerning placement or removal of a receptacle	\$200
12	2.7(a)	Failing to keep a receptacle in the required location	\$200
13	2.7(b)	Failing to place a receptacle for collection in a lawful position	\$200
14	2.7(c)	Failing to notify of a lost, stolen, damaged or defective receptacle	\$200
15	2.9(a)	Damaging, destroying or interfering with a receptacle	\$200
16	2.9(b)	Removing a receptacle from premises	\$200
17	2.10(1)	Failing to comply with a term or condition of verge waste collection	\$200
18	2.10(2)	Removing waste for commercial purposes	\$200
19	2.10(3)	Disassembling or leaving in disarray waste deposited for collection	\$200
20	3.1(a)	Failing to provide an adequate number of receptacles	\$200
21	3.1(b)	Failing to keep a receptacle in a good condition and repair	\$200
22	3.1(c)	Failing to comply with a direction to clean receptacle	\$200
23	3.2(1)	Unauthorised removal of waste from premises	\$200
24	3.2(2)	Removing waste from a receptacle without approval	\$200
25	3.3(a)	Depositing unauthorised waste into a receptacle provided for use of the general public	\$200
26	4.3(2)	Failing to comply with a sign or direction	\$250
27	4.3(4)	Failing to comply with a direction to leave	\$250
28	4.4(1)	Disposing waste without payment of fee or charge	\$250
29	4.5(1)	Depositing waste contrary to sign or direction	\$250
30	4.6(1)(a)	Removing waste without authority from a waste facility	\$250
31	4.6(1)(b)	Depositing toxic, poisonous, hazardous or prohibited waste at a waste facility	\$250
32	4.6(1)(c)	Lighting a fire in a waste facility	\$250
33	4.6(1)(d)	Removing or interfering with any flora in a waste facility	\$250
34	4.6(1)(e)	Removing or interfering with any fauna without approval in a waste facility	\$250
35	4.6(1)(f)	Damaging, defacing or destroying any building, equipment, plant or property within a waste facility	\$250
36	4.6(2)	Acting in an abusive or threatening manner	\$250

Dated this 20th of August 2021.

The Common Seal of the City of Canning was affixed by authority of a resolution of the Council in the presence of—

PATRICK HALL, Mayor.

STEPHEN CAIN, Chief Executive Officer.

Consented to—

MICHELLE ANDREWS, Chief Executive Officer,
Department of Water and Environmental Regulation.

Dated this 8th of July 2021.

**CAT ACT 2011
LOCAL GOVERNMENT ACT 1995**

CITY OF CANNING

CAT LOCAL LAW 2021

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**CAT ACT 2011
LOCAL GOVERNMENT ACT 1995**

CITY OF CANNING

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 Canning resolved on 17 August 2021 to make the following local law.

PART 1—PRELIMINARY

1.1 Title

This is the *City of Canning Cats Local Law 2021*.

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 Repeal

The *City of Canning Control and Keeping of Cats Local Law 2007*, published in the *Government Gazette* on 21 August 2007, is repealed.

1.5 Terms used

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

Act means the *Cat Act 2011*;

applicant means a person who applies for an approval;

application means an application for an approval;

approval means approval under regulation 9 of the *Cat (Uniform Local Provisions) Regulations 2013* and Part 2 of this local law;

approved person means the person to whom an approval is granted;

authorised person means a person appointed under section 9.10 of the Local Government Act 1995 to perform any of the functions conferred on an authorised person under this local law;

cat has the meaning in the Act;

cat prohibited area means an area described in Schedule 1;

cat management facility has the meaning in the Act;

CEO means the Chief Executive Officer of the local government;

district means the district of the local government;

local government means the City of Canning;

local planning scheme means a local planning scheme made by the local government under the Planning and Development Act 2005;

multiple dwelling has the meaning in the local planning scheme;

nuisance means—

- (a) 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;
- (b) an unreasonable interference with the use and enjoyment of a person of his or her ownership or occupation of land;
- (c) interference which causes material damage to land or other property on the land affected by the interference;

owner in relation to a cat, has the meaning in the Act;

premises has the meaning in the Act;

prescribed premises has the meaning in the *Cat Regulations 2012*;

Schedule means a schedule to this local law; and

veterinarian has the meaning in the Act.

(2) A term that is used in this local law and is not defined in subclause (1) has the meaning in the Act or, if not defined in the Act, the meaning in the *Cat Regulations 2012*, the *Cat (Uniform Local Provisions) Regulations 2013* or the *Local Government Act 1995*.

PART 2—NUMBER OF CATS THAT MAY BE KEPT

2.1 Interpretation

For the purposes of this Part, a cat does not include a cat less than 6 months old.

2.2 Prescribed premises

For the purposes of the definition of **prescribed premises** in regulation 4(1) of the *Cat (Uniform Local Provisions) Regulations 2013*, this local law limits the number of cats that may be kept at any premises except—

- (a) a cat management facility operated by a body prescribed as a cat management facility operator under the *Cat Regulations 2012*;
- (b) a cat management facility operated by the local government; or
- (c) a veterinary clinic or veterinary hospital as defined under section 2 of the *Veterinary Surgeons Act 1960*, but only in relation to cats kept on those premises for treatment.

2.3 Standard number of cats

For the purposes of the definition of **standard number of cats** in regulation 4(1) of the *Cat (Uniform Local Provisions) Regulations 2013*, unless a member of a cat organisation is ordinarily resident on the premises, no more than 2 cats may be kept on premises within the residential zone of a local planning scheme or on premises used for residential purposes.

2.4 Application for approval

(1) An application for approval to keep an additional number of cats at prescribed premises is dealt with in regulation 8 of the *Cat (Uniform Local Provisions) Regulations 2013*.

(2) Application for approval must be accompanied by the application fee determined by the local government in accordance with section 6.16 to 6.19 of the *Local Government Act 1995*.

2.5 Determining an application

(1) For the purpose of determining whether to grant approval for an application to keep an additional number of cats at prescribed premises, the local government must have regard to—

- (a) the zoning of the land under a local planning scheme;
- (b) the physical suitability 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 a nuisance, inconvenience or annoyance to an occupier 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; and
- (h) any other factors which the local government considers to be relevant in the circumstances of the application.

(2) The local government may, in respect of an application for approval—

- (a) grant the application, unconditionally or subject to any conditions it considers appropriate; or
- (b) refuse to grant the application.

(3) If the local government grants the application, it is to issue to the approved person an approval in the form determined by the CEO.

(4) If the local government refuses to grant the application, it must advise the applicant in writing of its decision.

2.6 Conditions

(1) For the purpose of ensuring that the premises to which an application relates are suitable for the additional number of cats, the local government may impose any condition that it considers appropriate for that purpose, including—

- (a) that the premises must be adequately fenced (and premises will be taken not to be adequately fenced if there is more than one escape of a cat from the premises);
- (b) that there must be adequate space for the exercise of the cats;
- (c) that, in the case of multiple dwellings where there is no suitable dividing fence, each current occupier of the adjoining multiple dwellings must give their written consent to the approval; and
- (d) that, without the consent of the local government, the approved person must not substitute or replace any cat that dies or is permanently removed from the premises.

(2) An approved person who does not comply with a condition of the approval commits an offence.

2.7 Renewal of an approval

- (1) The local government is to renew an approval if—
 - (a) the approved person has not breached the conditions of the approval;
 - (b) the approval would have been granted if a fresh application for approval had been made; and
 - (c) the renewal fee, imposed and determined by the local government under sections 6.16 to 6.19 of the *Local Government Act 1995*, is paid to the local government before the expiry of the approval.
- (2) On the renewal of an approval, the conditions of the approval that applied immediately before the renewal continue to have effect.

2.8 Transfer of an approval

- (1) An approval relates only to the premises specified in the approval, and only to the approved person specified in the approval, and is transferrable only in accordance with this clause.
- (2) An application for the transfer of an approval from the approved person to another person (*transferee*) must be—
 - (a) made in the form determined by the CEO;
 - (b) made by the proposed transferee;
 - (c) made with the consent of the approved person; and
 - (d) lodged with the local government together with—
 - (i) any document or information that the local government requires to determine the application, including any requirement for the applicant to verify the information by a statutory declaration; and
 - (ii) the fee for the application for the transfer of an approval that is imposed and determined by the local government under sections 6.16 to 6.19 of the *Local Government Act 1995*.
- (3) The local government is not to determine an application for the transfer of an approval until the proposed transferee has complied with subclause (2).
- (4) The local government may, in respect of an application for the transfer of an approval—
 - (a) grant the application, subject to any conditions that the local government may impose under clause 2.6; or
 - (b) refuse to grant the application.
- (5) If the local government grants an application for the transfer of an approval—
 - (a) it is to issue to the transferee an approval in the form determined by the CEO; and
 - (b) on the date of the grant, unless otherwise specified in the approval, the transferee becomes the approved person for the purposes of this local law.
- (6) If the local government refuses to grant an application for the transfer of an approval, it must advise the applicant in writing of its decision.

2.9 Variation or cancellation of an approval

- (1) The local government may, at any time, vary the conditions of an approval by giving written notice to the approved person and specifying the date on which the varied conditions are to become effective.
- (2) The local government may cancel an approval—
 - (a) on the request of the approved person;
 - (b) if the approved person breaches the Act, the *Cat Regulations 2012*, the *Cat (Uniform Local Provisions) Regulations 2013* or this local law; or
 - (c) if, in the opinion of the local government, the approved person is not a fit and proper person to provide for the health and welfare of the cats.
- (3) If the local government cancels an approval—
 - (a) it must give written notice to the approved person of its decision and the date of effect of the cancellation; and
 - (b) the fee paid for the approval is not refundable for the term of the approval that has not yet expired.

2.10 Objection and review rights

A decision of the local government made under Part 2 is a decision to which Division 1, Part 9 of the *Local Government Act 1995* applies.

PART 3—APPROVED CATTERY ESTABLISHMENT

3.1 Interpretation

In this Part, unless the context requires otherwise—

cattery means any premises where more than 2 cats are boarded, housed or trained temporarily, whether for profit or otherwise, and where the occupier of the premises is not the ordinary keeper of the cats;

licence means a cattery licence issued under this local law;

licensee means the holder of a licence;

premises, in addition to the meaning given to it in section 3 of the Act, means the premises described in the application to be licensed as a cattery; and

transferee means a person who applies for the transfer of a licence to him or her under clause 3.14.

3.2 Operating a cattery without a licence

A person who, without a licence, operates a cattery commits an offence.

3.3 Application for a licence to be a cattery.

An application for a licence must be in a form approved by the CEO and must be lodged with the local government together with—

- (a) details of the number of cats and a description of the cats proposed to be kept on the premises;
- (b) plans and specifications of the premises, including a site plan;
- (c) copies of the notices to be given under clause 3.4;
- (d) written evidence that either the applicant or another person who will have the charge of the cats will reside on the premises or, in the opinion of the local government, sufficiently close to the premises so as to control the cats and ensure their health and welfare;
- (e) a written acknowledgement that the applicant has read and agrees to comply with any code of practice relating to the keeping of cats which may be nominated from time to time by the local government; and
- (f) the fee for the application for a licence referred to in clause 3.11(1).

3.4 Notice of proposed use

(1) An applicant for a licence must give notice of the proposed use of the premises as an approved cattery after the application for a licence has been lodged—

- (a) once in a newspaper circulating in the district; and
- (b) to the owners and occupiers of any premises adjoining the premises.

(2) The notices in subclause (1) must specify that—

- (a) any written submissions as to the proposed use are to be lodged with the CEO within 14 days of the date the notice is given; and
- (b) the application and plans and specifications may be inspected at the offices of the local government.

(3) Where—

- (a) each notice given under subclause (1) does not clearly identify the premises; or
- (b) a notice given under subclause (1)(a) is of a size or in a location in the newspaper which, in the opinion of the local government, would fail to serve the purpose of notifying persons of the proposed use of the premises,

the local government may refuse to determine the application for a licence until each notice is given in accordance with its directions.

3.5 Exemption from notice requirements

The requirements of clauses 3.3(c) and 3.4 do not apply in respect of an application for a licence if the application is made in respect of premises on which an approved cattery is either—

- (a) a permitted use under a planning scheme; or
- (b) a use which, under a planning scheme, the local government may approve subject to compliance with specified notice requirements.

3.6 When application can be determined

An application for a licence is not to be determined by the local government until—

- (a) planning approval (if required) has been given by the local government;
- (b) the applicant has complied with clause 3.3; and
- (c) unless clause 3.5 applies—
 - (i) the applicant has submitted proof that the notices referred to in clause 3.4(1) have been given in accordance with that clause; and
 - (ii) the local government has considered any written submissions received within the time specified in clause 3.4(2)(a) on the proposed use of the premises.

3.7 Determining an application

In determining an application for a licence, the local government is to have regard to—

- (a) the matters referred to in clause 3.8;
- (b) any written submissions received within the time specified in clause 3.4(2)(a) on the proposed use of the premises;
- (c) the effect which the cattery may have on the environment or amenity of the neighbourhood;
- (d) the physical suitability of the premises for the proposed use;
- (e) the structural suitability of any enclosure in which any cat is to be kept;
- (f) whether or not the imposition of and compliance with appropriate conditions of a licence will mitigate any adverse effects of the cattery identified in the preceding paragraphs; and

- (g) any other factors which the local government considers to be relevant in the circumstances of the application.

3.8 Where an application cannot be granted

The local government cannot grant an application for a licence where—

- (a) an approved cattery cannot be permitted by the local government on the premises under a local planning scheme unless prior valid planning approval has been issued by the local government and the application for a licence is consistent with that approval; or
- (b) an applicant for a licence or another person who will have the charge of the cats will not reside on the premises, or, in the opinion of the local government, sufficiently close to the premises so as to control the cats and so as to ensure their health and welfare.

3.9 Decision on an application

(1) The local government may, in respect of an application for a licence—

- (a) grant the application as it was submitted, unconditionally or subject to any conditions that it considers appropriate; or
- (b) grant the application but specify an alternative number of cats permitted to be kept on the premises; or
- (c) refuse to grant the application.

(2) If the local government grants the application subject to conditions, those conditions may relate to matters such as—

- (a) the location, number, type, form or construction, of any enclosure in which a cat is to be kept;
- (b) the maintenance, in good order and in a clean and sanitary condition, of each enclosure;
- (c) the type and construction of any fencing used to confine cats;
- (d) the maintenance, cleaning and sanitising of drinking and eating vessels;
- (e) the method of disposal of all refuse, faeces and food waste;
- (f) the effective control of odours, fleas and flies; and
- (g) the provision of suitable water available at the premises.

(3) If the local government grants the application, it is to issue a licence to the applicant in the form determined by the CEO.

(4) If the local government refuses to grant the application, it must advise the applicant in writing of its decision.

3.10 Compliance with conditions of licence

A licensee must comply with each condition of a licence.

3.11 Fees

- (1) On lodging an application for a licence, the applicant must pay a fee to the local government.
- (2) On renewal of a licence, the licensee must pay a fee to the local government.
- (3) On lodging an application for the transfer of a valid licence, the transferee must pay a fee to the local government.
- (4) The fees referred to in subclauses (1) to (3) are to be determined by the local government under sections 6.16 to 6.19 of the *Local Government Act 1995*.

3.12 Period of a licence

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

- (a) if it is cancelled—on the date that written notice of the cancellation is given to the licensee, or on the date specified on that notice—whichever is the later; or
- (b) if the licensee ceases to reside at the premises to which the licence relates—on the date that written notice of the expiry is given to the licensee, or on the date specified on that notice—whichever is the later.

3.13 Variation or cancellation of a licence

(1) The local government may, at any time, vary the conditions of a licence by giving written notice to the licensee and specifying the date on which the varied conditions are to become effective.

(2) The local government may cancel a licence—

- (a) on the request of the licensee; or
- (b) if the licensee breaches the Act, the *Cat Regulations 2012*, the *Cat (Uniform Local Provisions) Regulations 2013* or this local law.

(3) If a licence is cancelled the fee paid for that licence is not refundable for the term of the licence that has not yet expired.

3.14 Transfer of a licence

(1) An application for the transfer of a valid licence from the licensee to another person (*transferee*) must be—

- (a) made in the form determined by the local government;
- (b) made by the transferee;

- (c) made with the written consent of the licensee; and
 - (d) lodged with the local government together with—
 - (i) written evidence that another person who will have the charge of the cats will reside on the premises or, in the opinion of the local government, sufficiently close to the premises so as to control the cats and ensure their health and welfare ; and
 - (ii) the fee for the application for the transfer of a licence referred to in clause 3.11(3).
- (2) The local government is not to determine an application for the transfer of a valid licence until the transferee has complied with subclause (1).
- (3) The local government may, in respect of an application for the transfer of a valid licence—
- (a) approve the application, unconditionally or subject to any conditions that it considers appropriate; or
 - (b) refuse to grant the application.
- (4) If the local government approves the application—
- (a) it is to give written notice of its decision to the transferee; and
 - (b) unless otherwise specified in the notice, the transferee becomes, on the date that the notice is given to the transferee, the licensee of the licence for the purposes of this local law.

3.15 Notification

The local government is to give written notice to—

- (a) an applicant for a licence of the local government's decision on her or his application;
- (b) a transferee of the local government's decision on her or his application for the transfer of a valid licence;
- (c) a licensee of any variation made under clause 3.13(1); and
- (d) a licensee of the cancellation of a licence under clause 3.13(2).

3.16 Objection and review rights

A decision of the local government made under Part 3 is a decision to which Division 1, Part 9 of the *Local Government Act 1995* applies.

PART 4—CAT CONTROL

4.1 Cat not to be a nuisance

- (1) An owner shall not allow a cat to be or create a nuisance.
- (2) Where in the opinion of an authorised person, a cat is creating a nuisance, the local government may give written notice to the owner of the cat requiring that person to abate the nuisance.
- (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 in the notice which shall not exceed 28 days.
- (4) A person given a notice to abate the nuisance shall comply with the notice within the period specified in the notice.

4.2 Cat prohibited areas

- (1) Unless in accordance with written authorisation from the local government a cat must not be in a cat prohibited area at any time.
- (2) If a cat is in a cat prohibited area contrary to subclause (1), the owner of the cat commits an offence.
- (3) An authorised person may seize and remove, or direct the seizure and removal of a cat from a cat prohibited area, pursuant to the Act.

PART 5—ENFORCEMENT

5.1 Offences

- (1) A 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) Unless otherwise specified, a 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 a further penalty not exceeding a fine of \$500 in respect of each day or part of a day during which the offence has continued.

5.2 Prescribed offences

- (1) An offence against a clause specified in Schedule 2 is a prescribed offence for the purposes of section 62(2) of the Act.
- (2) The amount appearing in the final column of Schedule 2 directly opposite a clause specified in that Schedule is the modified penalty for an offence against that clause.

5.3 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 in respect of an offence against this local law may be given under section 62 of the Act and is to be in the form of Form 6 in Schedule 1 to 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 in Schedule 1 to the *Cat Regulations 2012*.

SCHEDULE 1—CAT PROHIBITED AREAS

[Clause 4.2]

Areas where cats are prohibited—

Common Name	Physical Lot Boundaries	Description
Portcullis Park	Lot 100 on P015166 Portcullis Drive Willetton; Lot 13 on P015669 Glenrowan Place Willetton; Lot 100 on D070816 Glenrowan Place Willetton; Lot 3466 on P014375 Kelly Place Willetton; Lot 3549 on P015166 Portcullis Drive Willetton.	All bushland and parkland within boundaries of the listed lots.
Lambertia Park	Lot 55 on P010797 Coniston Way Ferndale; Lot 54 on P010806 Lambertia Way Ferndale.	All bushland and parkland within boundaries of the listed lots.
The Escarpment Walkway	Road Reserve boundaries of Apsley Road, The Escarpment and Karel Avenue Willetton.	All bushland within road reserve boundary.
Crawford Street Reserve	Lot 171 on P052420 Crawford Street, East Cannington.	All bushland within boundaries of the listed lot.
Vellgrove Park	Lot 506 on P016216 Vellgrove Avenue Parkwood; Lot 508 on P016215 Vellgrove Avenue Parkwood.	All bushland within boundaries of the listed lots.
Turnstone Gardens	Lot 50 on P024362 Turnstone Gardens East Cannington.	All bushland within boundaries of the listed lot.
Canning River Regional Park	Lot 1616 on D022302 Vervain Way Riverton; Lot 50 on D098197 Riverton Drive Riverton; Lot 3785 on D059193 Vervain Way Riverton; Lot 52 on D055873 Riley Road Riverton; Lot 920 on P240087 Adenia Road Riverton; Lot 202 on D056764 Rivermoor Loop Riverton; Lot 50 on P012721 Adenia Road Riverton; Lot 199 on D059749 Adenia Road Riverton; Lot 300 on P300637 Adenia Road Riverton; Lot 301 on P300637 Adenia Road Riverton; Lot 1 on P007795 Duff Road Riverton; Lot 314 on P245497 Ferndale Crescent Ferndale; Lot 33 on P007795 Adenia Road Ferndale; Lot 500 on D050952 Ferndale Crescent Ferndale; Lot 933 on P004863 Ferndale Crescent Ferndale; Lot 9 on P004863 Ferndale Crescent Ferndale; Lot 10 on P004863 Ferndale Crescent Ferndale; Lot 7 on P028671 Ferndale Crescent Ferndale; Lot 8 on P028671 Ferndale Crescent Ferndale; Lot 12 on P004863 Ferndale Crescent Ferndale; Lot 41 on P006356 Ferndale Crescent Ferndale; Lot 4 on D042922 Champlin Way Ferndale; Lot 44 on D020004 Champlin Way Ferndale; Lot 1744 on D020004 Champlin Way Ferndale; Lot 5 on D056306 Champlin Way Ferndale; Lot 3805 on P054948 Queens Park Road Wilson; Lot 3812 on P054948 Queens Park Road Wilson; Lot 26 on D001594 Queens Park Road Wilson; Lot 81 on P038258, 10 Queens Park Rd Wilson; Lot 3008 on P050183 Bywater Way Wilson; Lot 3007 on P050183 Bywater Way Wilson; Lot 25 on D001594 Queens Park Road Wilson; Lot 27 on D001594 Queens Park Road Wilson; Lot 1 on D028502 River Road Cannington; Lot 201 on D055761 Adenia Road Riverton; Lot 921 on P240087 Adenia Road Riverton; Lot 923 on P240087 Ferndale Crescent Ferndale; Lot 924 on P240087 Ferndale Crescent Ferndale;	All bushland and parkland within boundaries of the listed lots, comprising Adenia Reserve, Ferndale Crescent Parkland, Kent Street Weir Park, Liege Street Wetlands, Masons Landing Foreshore, Bywater Reserve and Wilson Park.

Common Name	Physical Lot Boundaries	Description
	Lot 4050 on P008020 Vervain Way Riverton; Lot 3902 on P019178 Irian Grove Riverton; Lot 801 on P038248 Champlin Way Ferndale; Lot 3810 on P053637 Marmot Way Ferndale; Lot 3811 on P053637 Marmot Way Ferndale; Lot 3813 on P053637 Marriamup Street Cannington; Lot 3814 on P053637 Marmot Way Ferndale; Lot 3806 on P054948 Fern Road Wilson; Lot 3808 on P054948 Queens Park Road Wilson; Lot 3809 on P054948 Queens Park Road Wilson; Lot 3811 on P054948 Queens Park Road Wilson; Lot 3812 on P054948 Kent Street Wilson; Lot 3010 on P050221 Woodloes Street Cannington; Lot 3011 on P050221 Woodloes Street Cannington; Lot 331 on P057505 Nicholson Road Cannington; Lot 3012 on P050221 Nicholson Road Cannington.	
Bannister Creek Park	Lot 1201 on D053049 Hybanthus Road Ferndale; Lot 2 on D053768, 448 Metcalfe Road Ferndale; Lot 2596 on P010672 Metcalfe Road Lynwood; Lot 2575 on P010672 Metcalfe Road Lynwood; Lot 1 on P007430 Iveston Road Lynwood; Lot 2630 on P010061 Iveston Road Lynwood.	All bushland and parkland within boundaries of the listed lots.
Queens Park Regional Open Space	Lot 3071 on P183396 Whitlock Road Queens Park; Lot 500 on P036532 Welshpool Road Queens Park; Lot 501 on P416666 Welshpool Road Queens Park; Lot 581 on P169403 Welshpool Road East Cannington; Lot 40 on P008289 Station Street, East Cannington; Lot 99 on P045833 Welshpool Road, East Cannington; Lot 22 on D064644 Wharf Street, Queens Park.	All bushland and parkland within boundaries of the listed lots.
McDowell Street Bushplan Site	Lot 3330 on P215806 Banksia Road Welshpool; Lot 4570 on P221365 Welshpool Road Welshpool; Lot 4569 on P221365 Welshpool Road Welshpool; Lot 3331 on P215806 McDowell Street Welshpool.	All bushland within boundaries of the listed lots.
Clifton Park Buffer	Lot 707 on P021824 Clifton Road Canning Vale.	All bushland within boundaries of the listed lot.
Clifton Park	Lot 501 on P416943 Crufts Way Canning Vale; Lot 500 on P416943 Crufts Way Canning Vale.	All bushland and parkland within boundaries of the listed lots.
Livingston Park	Lot 76 on P015838 Livingstone Drive Canning Vale.	All bushland within boundaries of the listed lot.
Caladenia Grove Damp Land	Lot 149 on P048843 Marginata Parkway Canning Vale.	All bushland within boundaries of the listed lot.
Yagan Park	Lot 2145 on P220483 Bullcreek Road Rossmoyne.	All bushland within boundaries of the listed lot.
Prendwick Botanic Park	Lot 596 on P012940 12-14 Glenmoy Avenue Willetton; Lot 1 on P017899 Larissa Road Willetton; Lot 1062 on D057466 Prendwick Way Willetton; Lot 597 on P012940 Glenmoy Avenue Willetton.	All bushland and parkland within boundaries of the listed lots.
Shelley Rossmoyne Foreshore	Lot 1859 on P208931 Riverton Drive Shelley; Lot 3243 on P240189 Riverton Drive Rossmoyne; Lot 3244 on P240189 Riverton Drive Shelley.	All bushland and parkland within boundaries of the listed lot.
Carousel Swamp	Lot 201 on P415006 Grose Avenue Cannington; Lot 1 on P000593 Lake Street Cannington; Lot 2 on P000593 Lake Street Cannington; Lot 3 on P000593 Lake Street Cannington; Lot 4 on P000593 Lake Street Cannington; Lot 5 on P000593 Lake Street Cannington; Lot 270 on P002209 Franklin Street Cannington;	All bushland which includes the land within the Threatened Ecological Community boundary.

Common Name	Physical Lot Boundaries	Description
	Lot 271 on P002209 Bent Street Cannington; Lot 269 on P002209 Franklin Street Cannington; Lot 274 on P002209 Bent Street Cannington; Lot 267 on P002209 Franklin Street Cannington; Lot 266 on P002209 Franklin Street Cannington; Lot 276 on P002209 Bent Street Cannington; Lot 265 on P002209 Franklin Street Cannington; Lot 277 on P002209 Bent Street Cannington; Lot 5 on P225925 Grey Street Cannington; Lot 268 on P002209 Franklin St Cannington; Lot 273 on P002209 Bent St Cannington; Lot 272 on P002209 Bent St Cannington; Lot 275 on P002209 Bent St Cannington.	
Fairfield Park	Lot 641 on P018558 Fairfield Gardens Canning Vale; Lot 515 on P019371 Parkland Trail Canning Vale.	All bushland and parkland within boundaries of the listed lots
Arlington Park	Lot 191 on P013525 Arlington Drive Willetton.	All bushland and parkland within boundaries of the listed lot.
Aderyn Park	Lot 3047 on P012273 Eloure Place Willetton; Lot 101 on D048230 Aderyn Place Willetton; Lot 2764 on P011137 Aderyn Place Willetton; Lot 3997 on P010386 Aderyn Place Willetton	All bushland and parkland within boundaries of the listed lots.
Sir Albert Jennings Park	Lot 687 on P013666 Apsley Road Willetton.	All bushland and parkland within boundaries of the listed lot.
Sheldrake Park	Lot 52 on P013874 Obion Close Willetton; Lot 738 on P013673 Sheldrake Way Willetton; Lot 1638 on P013673 Sheldrake Way Willetton; Lot 58 on P008111 Colkirk Way Willetton; Lot 686 on D062006 High Road Willetton.	All bushland and parkland within boundaries of the listed lots.
Brolga Park	Lot 2561 on P010081 Brolga Promenade Willetton.	All bushland and parkland within boundaries of the listed lot.
Nurdi Park	Lot 3794 on P190656 Beatrice Avenue Shelley.	All bushland and parkland within boundaries of the listed lot.
Granville Park	Lot 553 on D061341 Granville Way Willetton; Lot 43 on P016902 Granville Way Willetton.	All bushland and parkland within boundaries of the listed lots.
Civic Centre Park	Lot 13 on P002936 Civic Gardens Cannington; Lot 5 on P002936 George Street Cannington; Lot 6 on P002936 George Street Cannington; Lot 7 on P002936 George Street Cannington; Lot 8 on P002936 George Street Cannington; Lot 11 on P002936 Civic Gardens Cannington; Lot 12 on P002936 Civic Gardens Cannington; Lot 9 on P002936 George Street Cannington; Lot 10 on P002936 Civic Gardens Cannington; Lot 14 on P002936 Civic Gardens Cannington; Lot 3 on P002936 Albany Highway Cannington; Lot 4 on P002936 George Street Cannington; Lot 1 on P002936 Albany Highway Cannington; Lot 2 on P002936 Civic Gardens Cannington.	All bushland and parkland within boundaries of the listed lots.
Mary Mackillop Park	Lot 0 on D001219 Thomas Street Queens Park; Lot 0 on D001258 Mary Mackillop Glen Queens Park; Lot 56 on P018679 Ursuline Vista Queens Park; Lot 5089 on P029810 Salesian Court Queens Park;	All bushland and parkland within boundaries of the listed lots.

Common Name	Physical Lot Boundaries	Description
	Lot 4866 on P033590 Irene McCormack Way Queens Park.	
Queens Park Reserve	Lot 262 on P001904 Centre Street Queens Park; Lot 29 on D039644 Treasure Road Queens Park; Lot 66 on D023759 Treasure Road Queens Park.	All bushland and parkland within boundaries of the listed lots.

SCHEDULE 2—PRESCRIBED OFFENCES

[Clause 5.2]

Item No.	Clause No.	Nature of Offence	Modified Penalty
1	2.6(2)	Breach of a condition of approval	\$250
2	3.2	Operating a cattery without a licence	\$300
3	3.10	Failing to comply with the conditions of a licence	\$250
4	4.1(1)	Cat causing a nuisance	\$250
5	4.1(4)	Failure to comply with an abatement notice	\$250
6	4.2	Cat in cat prohibited area	\$250

Dated this 20th of August 2021.

The Common Seal of the City of Canning was affixed by authority of a resolution of the Council in the presence of—

PATRICK HALL, Mayor.
STEPHEN CAIN, Chief Executive Officer.
