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LOCAL GOVERNMENT ACT 1995

CAT ACT 2011

CITY OF BAYSWATER

**KEEPING AND CONTROL OF
CATS LOCAL LAW 2016**

**LOCAL GOVERNMENT ACT 1995
CAT ACT 2011**

CITY OF BAYSWATER

KEEPING AND CONTROL OF CATS LOCAL LAW 2016

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LOCAL GOVERNMENT ACT 1995
CAT ACT 2011

CITY OF BAYSWATER

KEEPING AND CONTROL OF CATS LOCAL LAW 2016

Under the powers conferred by the *Cat Act 2011* and the *Local Government Act 1995* and under all other powers enabling it, the Council of the City of Bayswater resolved on 17 May 2016 to make the following local law.

PART 1—PRELIMINARY

1.1 Repeal

The City of Bayswater Keeping and Control of Cats Local Law 2014 as published in the *Government Gazette* on 17 October 2014 is repealed.

1.2 Citation

This local law may be cited as the *City of Bayswater Keeping and Control of Cats Local Law 2016*.

1.3 Commencement

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

1.4 Application

This local law applies throughout the district.

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 appointed by the local government to perform the functions conferred on an authorised person under this local law;

cat means an animal of the species *felis catus* or a hybrid of that species;

cat management facility means—

- (a) a facility operated by a local government that is, or may be, used for keeping cats; or
- (b) a facility for keeping cats that is operated by a person or body prescribed; or
- (c) a facility for keeping cats that is operated by a person or body approved in writing by a local government;

cattery means any premises where more than 3 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;

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.

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 government means the City of Bayswater;

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 has the same meaning as given in the Act;

owner 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;

permit means a permit issued by the local government under clause 3.6;

permit holder means a person who holds a valid permit under clause 3.6;

premises includes the following—

- (a) land (whether or not vacant);
- (b) the whole or part of a building or structure (whether of a permanent or temporary nature); and
- (c) a vehicle.

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

Schedule means a schedule to this local law;

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

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

PART 2—CAT CONTROL

2.1 Cat Nuisance

The owner or occupier of premises on which a cat is ordinarily kept shall prevent the cat from creating a nuisance on other premises, to another person or exposing another person to health and/or safety risks by—

- (a) the noise or odour generated by the presence of the cat;
- (b) the aggressive nature of the cat.

PART 3—PERMITS FOR KEEPING CATS

3.1 Interpretation

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

cat does not include a cat less than 6 months old.

3.2 Cats for which a permit is required

- (1) Subject to subclause (2) a person is required to have a permit—
 - (a) to keep more than 3 cats on any single dwelling or grouped dwelling premises to a maximum of six (6);
 - (b) to keep more than 2 cats on any multiple dwelling property to a maximum of six (6); or
 - (c) to use any premises as a cattery.
- (2) A permit is not required under subclause (1) if the premises concerned are—
 - (a) a refuge of the RSPCA or any other animal welfare organisation;
 - (b) a cat management facility which has been approved by the local government;
 - (c) a veterinary surgery; or
 - (d) a pet shop.

3.3 Application for permit

An application for a permit under clause 3.2 shall be—

- (a) be 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;
- (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 Scheme which applies to the premises for the 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 require an applicant to—
- (a) consult with other nearby landowners; and
 - (b) advise other 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 subclause 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, as it was submitted, 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;
 - (b) approve an application, but specify an alternative number of cats permitted to be housed at the address; or
 - (c) 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 shall 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 effective control of a person;
 - (c) the permit holder will provide adequate space for the exercise of the cats;
 - (d) the premises shall be maintained in good order and in a clean and sanitary condition; and
 - (e) those conditions contained in Schedule 1.
- (2) In addition to the conditions subject to which a permit is to be issued under this clause, a permit may be issued subject to other conditions, as the local government considers appropriate.
- (3) The permit holder who fails to comply with a condition of a permit commits an offence.

3.8 Duration of permit

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

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

3.9 Revocation

The local government may revoke a permit if the permit holder fails to observe any provision of this local law or a condition of a permit.

3.10 Permit not transferable

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

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

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

PART 4—MISCELLANEOUS**4.1 Giving of an Infringement notice**

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

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

PART 5—OBJECTIONS AND APPEALS**5.1 Objection and appeal rights**

Any person who is aggrieved by the conditions imposed in relation to a permit, the revocation of a permit, or by the refusal of the local government to grant a permit may object to or appeal against the decision under Division 1 of Part 9 of the *Local Government Act 1995*.

PART 6—OFFENCES, DEFENCE AND PENALTIES**6.1 Offences**

- (1) Any person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.
- (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 a fine 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 2 is a prescribed offence for the purposes of section 63 of the Act.
- (2) The amount appearing directly opposite each such offence is the modified penalty in relation to that offence.

6.3 Forms

- (1) The issue of infringement notices, their withdrawal and the payment of modified penalties are dealt with in Division 4 of Part 4 of the Act.
- (2) An infringement notice given under section 63 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**ADDITIONAL CONDITIONS APPLICABLE TO PARTICULAR PERMITS
FOR MULTIPLE DWELLINGS**

[Clause 3.7]

A. Permit to keep more than prescribed number of cats

Additional conditions

- (1) The written consent to the application for a permit of the adjoining multiple dwellings on the same level has been obtained;
- (2) Without the consent of the local government, the permit holder will not substitute or replace any cat once that cat—
 - (a) dies;
 - (b) is permanently removed from the premises.

B. Permit to use premises as a 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 2

MODIFIED PENALTIES

[Clause 6.2]

Item	Clause	Offence	Modified Penalty
1	2.1	Cat causing a nuisance	\$250
2	3.2(1)(a) & (b)	Keeping more than prescribed number of cats without a permit	\$250
3	3.2(1)(c)	Keeping a cattery without a permit	\$350
4	3.7(3)	Failure to comply with permit condition	\$250

The COMMON SEAL of THE CITY OF BAYSWATER was hereto affixed by the authority of a resolution of the Council in the presence of—

FRANCESCA LEFANTE, Chief Executive Officer.
BARRY McKENNA, Mayor.

Dated: 17 May 2016.
