

Cat Act 2011
Cat Regulations 2012
Cat (Uniform Local Provisions) Regulations 2013
Local Government Act 1995

City of South Perth

Cats Local Law 2016

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Cat Act 2011
Cat Regulations 2012
Cat (Uniform Local Provisions) Regulations 2013
Local Government Act 1995

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 South Perth resolved on 28 June 2016 to make the following local law.

Part 1 - Preliminary

1.1 Title

This is the *City of South Perth Cats Local Law 2016*.

1.2 Commencement

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

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

cat has the meaning given to it in the Act;

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

s3(1) of the *Cat Act 2011*.

cat management facility has the meaning given to it 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 South Perth;

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

owner has the meaning given to it in the Act;

Section 4 of the *Cat Act 2011* states -

4. Term used: owner

(1) In this Act —

owner, in relation to a cat, means any of these persons —

- (a) in the case of a cat that is registered, the registered owner of the cat; or
- (b) in the case of a cat that is not registered, a person who, or an owner of a business or organisation that, ordinarily keeps and cares for the cat; or
- (c) if a person referred to in paragraph (b) is a child under 18 years of age, that child's parent or guardian.

(2) In the case of a cat that is not registered, but is microchipped, a person whose name is recorded as the owner of the cat in a microchip database is to be taken, in the absence of evidence to the contrary, to be a person who ordinarily keeps and cares for the cat.

premises has the meaning given to it in the Act;

prescribed premises has the meaning given to it in regulation 4(1) of the *Cat (Uniform Local Provisions) Regulations 2013*;

standard number of cats has the meaning given to it in regulation 4(1) of the *Cat (Uniform Local Provisions) Regulations 2013*; and

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);
- (c) a vehicle;

s3(1) of the *Cat Act 2011*.

veterinarian has the meaning given to it in the Act.

veterinarian means a registered veterinary surgeon as defined in the *Veterinary Surgeons Act 1960* section 2.

s3(1) of the *Cat Act 2011*.

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

1.4 Application

This local law applies throughout the district.

Part 2 - Number of cats that may be kept

2.1 Prescribed premises

- (1) This local law limits the number of cats that may be kept at prescribed premises within the district 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 in the *Veterinary Surgeons Act 1960* section 2, but only in relation to cats kept on those premises for treatment.

Regulation 4 of the Cat Regulations 2012 states –

4. Cat management facility operators (s. 3(1))

For the purposes of the definition of cat management facility paragraph (b) in section 3(1) of the Act, each of the following bodies are prescribed as operators of a facility for keeping cats —

- (a) Cat Welfare Society Inc., trading as “Cat Haven”;
- (b) Royal Society for the Prevention of Cruelty to Animals (Inc) of Western Australia.

- (2) To avoid doubt, subclause (1) applies in respect of cats that are kept at premises under a boarding service operated by a veterinarian.

2.2 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*, no more than 3 cats may be kept on premises at which a member of a cat organisation is not ordinarily resident.

Regulation 7 of the Cat (Uniform Local Provisions) Regulations 2013 states -

‘If a member of a cat organisation is ordinarily resident at prescribed premises, the number of cats that may be kept at the premises is 3 times the number of cats that could be kept at the premises under the local law that applies to the premises’.

A “member of a cat organisation” is defined to mean a person referred to in regulation 23(c) of the *Cat Regulations 2012*;

Regulation 23(3) of the *Cat Regulations 2012* refers to a person who -

- (c) is a current member of one of the following organisations and associations —
 - (i) the Cat Owners Association of Western Australia (COAWA);
 - (ii) the Feline Control Council of Western Australia (FCCWA);
 - (iii) the Australian National Cats (ANCATS).

2.3 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*.

Note: under the *Cat (Uniform Local Provisions) Regulations 2013* –

- (1) a cat that is under 6 months of age is not to be included when calculating the number of cats ordinarily kept at prescribed premises (regulation 5);
- (2) a person who is ordinarily resident at prescribed premises may apply to the local government for approval to keep an additional number of cats at its premises (regulation 8(1)); and
- (3) there are detailed provisions dealing with the application and approval processes and requirements (see regulations 8-11).

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

2.4 Determining an application

Note: under regulation 9 of the *Cat (Uniform Local Provision) Regulations 2013*, the local government must not grant approval for an additional number of cats on prescribed premises unless it is satisfied that the premises are suitable for the additional number of cats.

- (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 the 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 of the proposed use on the amenity of the surrounding area;
 - (g) the likely effect of the proposed use on the local environment, including any pollution or other environmental damage; and
 - (h) any other factors which the local government considers to be relevant in the circumstances of the application.
- (2) An approval is to be in the form determined by the CEO and is to be issued to the approved person.

2.5 Conditions

Regulation 9(3) of the *Cat (Uniform Local Provision) Regulations 2013* states .-

An approval is subject to any condition that the local government –

- (a) reasonably considers is necessary to ensure that the premises are suitable for the additional number of cats; and
- (b) specifies in the approval.

- (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 to be reasonably necessary 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 a multiple dwelling 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.

Penalty: a fine of \$5,000.

2.6 Renewal of an application

Regulation 10 of the *Cat (Uniform Local Provisions) Regulations 2013* states –

An approval has effect for the period specified in the approval.

- (1) An application is to be renewed 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 6.16-6.19 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.

2.7 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 2.7.
- (2) An application for the transfer of an approval from the approved person to another person 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 the fee for the application for the transfer of an approval that is imposed and determined by the local government under sections 6.16-6.19 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 grant, or refuse to grant an application for the transfer of an approval whether or not subject to such conditions as it considers appropriate,.
- (5) Where 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 approval, unless otherwise specified in the approval, the transferee becomes the approved person for the purposes of this local law.

2.8 Variation or cancellation of an approval

- (1) The local government may, at any time, vary the conditions of an approval.
- (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 the approved person is not a fit and proper person to provide for the health and welfare of the cats.
- (3) If an approval is cancelled, the fee paid for the approval is not refundable for the term of the approval that has not yet expired.

2.9 Objection and review rights

A decision of the local government made under clauses 2.6, 2.7 or 2.8 is a decision to which Division 1, Part 9 of the *Local Government Act 1995* applies.

Regulation 11 of the *Cat (Uniform Local Provisions) Regulations 2013* states –

11. Review by the State Administrative Tribunal

A person who applies for approval to keep an additional number of cats may apply to the State Administrative Tribunal for a review of a decision of the local government to —

- (a) refuse to grant approval; or
- (b) grant approval to keep an additional number of cats that is less than the number specified in the application; or
- (c) grant approval subject to conditions.

Part 3 - Enforcement

3.1 Infringement notices

- (1) If this local law expresses a modified penalty as a number of penalty units, the monetary value of the modified penalty is the number of dollars obtained by multiplying the value of the penalty unit by the number of penalty units as specified in the *City of South Perth Penalty Units Local Law 2003*.
- (2) An offence against clause 2.5(2) is a prescribed offence for the purposes of section 62(1) of the Act and the modified penalty for the offence is a fine of 20 penalty units.
- (3) The form of an infringement notice is Form 6 in the *Cat Regulations 2012*, Schedule 1.
- (4) The form of withdrawal of the infringement notice is Form 7 in the *Cat Regulations 2012*, Schedule 1.

3.2 Objection

The form of an objection under clause 2.9 is Form 8 in the *Cat Regulations 2012*, Schedule 1.

Dated **date** 2016

The Common Seal of the City of South Perth was affixed by authority of a resolution of the Council in the presence of –

Sue Doherty, Mayor

Geoff Glass, Chief Executive Officer