

Cat Act 2011
Local Government Act 1995

City of South Perth

Cats Local Law 2016

Cat Act 2011
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 27 September 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 Repeal

Section 61 of the *City of South Perth Health Local Law 2002*, published in the *Government Gazette* on 22 November 2002 is deleted.

1.4 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 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*;

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; or
- (c) interference which causes material damage to land or other property on the land affected by the interference.

owner has the meaning given to it in the Act;

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

veterinarian has the meaning given to it in the Act.

- (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*.

1.5 Application

This local law applies throughout the district.

Part 2 - Number of cats that may be kept

2.1 Interpretation

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

2.2 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 under section 2 of the *Veterinary Surgeons Act 1960*, but only in relation to cats kept on those premises for treatment.
- (2) To avoid doubt, subclause (1) applies in respect of cats that are kept at premises under a boarding service operated by a veterinarian.

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

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) 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*.

2.5 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 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.

2.6 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 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 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.

2.7 Renewal of an application

- (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 new 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 2.8.
- (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 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 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.

2.9 Variation or cancellation of an approval

- (1) The local government may, at any time, vary in writing the conditions of an approval.
- (2) The local government may writing 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.
- (4) A variation to, or cancellation of an approval under this clause takes effect from the date stated in the notice of variation or cancellation given in writing by the local government.

2.10 Objection and review rights

A decision of the local government made under clauses 2.7, 2.8 or 2.9 of this local law is a decision to which Part 9, Division 1 of the *Local Government Act 1995* applies.

Part 3 - Enforcement

3.1 Infringement notices

- (1) (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, as specified in the City of South Perth Penalty Units Local Law 2003, by the number of penalty units specified in this local law.
- (2) An offence against clause 2.6(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 Schedule 1 of the *Cat Regulations 2012*.
- (4) The form of withdrawal of the infringement notice is Form 7 in Schedule 1 of the *Cat Regulations 2012*.

3.2 Objection

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

Dated 27 September 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