

City of Stirling

**KEEPING AND CONTROL OF CATS
LOCAL LAW 1999**

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KEEPING AND CONTROL OF CATS LOCAL LAW 1999

Under the powers conferred by the Local Government Act 1995 and under all other powers, the Council of the City of Stirling resolved on 6 July 1999 to make the following local law.

PART 1 - PRELIMINARY

Citation

1.1 This local law may be cited as the City of Stirling Keeping and Control of Cats Local Law 1999.

Objects

1.2 The objects of this local law are to –

- (a) control the number of cats kept on premises; and
- (b) protect native fauna,

particularly in relation to Cat Prohibited Areas and Fauna Protection Buffer Zones.

Definitions

1.3 In this local law unless the context otherwise requires -

"Act" means the Local Government Act 1995;

"applicant" means the occupier of premises who makes an application for a permit under clause 3.3;

"authorised person" means a person authorised by the City under section 9.10 of the Act to perform any of the functions of an authorised person under this local law;

"Cat Prohibited Area" means the land –

- (a) designated as such under clause 4.1; or
- (b) described in Schedule 1;

"cattery" means any premises where 4 or more cats are kept, boarded, trained or bred;

"CEO" means the chief executive officer of the City;

"City" means the City of Stirling;

"Council" means the council of the City;

"district" means the district of the City;

"Fauna Protection Buffer Zone" means the land extending 200m from the boundary of a Cat Prohibited Area and includes all of each of the properties through which the 200m limit passes.

"identified cat" means a cat which is identified under clause 2.2;

"keeper" in relation to a cat means each of the following persons –

- (a) the owner of the cat;
- (b) a person by whom the cat is ordinarily kept;
- (c) a person who has or appears to have immediate custody or control of the cat;
- (d) a person who keeps the cat, or has the cat in her or his possession for the time being;
- (e) a person who occupies any premises in which the cat is ordinarily kept or ordinarily permitted to live; or
- (f) the permit holder of a permit which relates to the cat;

"permit" means a permit issued by the City under this local law;

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

"premises" includes -

- (a) any land and any improvements used for any purpose; and
- (b) any part of any building in separate ownership or separate occupation, or any unit, flat, town house, duplex or apartment;

"Register" is defined in clause 5.1(1); and

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

Note: *The Interpretation Act 1984* contains various provisions which assist in the interpretation of this local law. For instance, in the absence of anything to the contrary, section 44(1) of that Act has the effect that a term used in this local law has the same meaning as is given to the term in the *Local Government Act 1995*.

Application

1.4 This local law applies throughout the district.

PART 2 - IDENTIFYING CATS

Keeper of a cat may identify it

2.1 A keeper of a cat may identify the cat under clause 2.2.

When a cat is identified

2.2 A cat is identified if –

- (a) the cat has a collar around its neck and the collar, or a tag securely attached to the collar, is marked with the current address or telephone number of a keeper of the cat; or
- (b) the cat has –
 - (i) a microchip implanted in its body containing, or containing information that may be used to obtain, the name of a keeper of the cat and a current address or telephone number of the keeper; or
 - (ii) the letter “M” tattooed on the inside of either of its ears.

No marking of “M” without microchip

2.3 (1) A person shall not –

- (a) tattoo or cause to be tattooed, the letter “M” on the inside of a cat’s ear; or
- (b) mark the inside of a cat’s ear, or cause the inside of a cat’s ear to be marked, in a manner likely to be mistaken for the letter “M”,
- (c) unless the cat has a microchip implanted in its body containing the information referred to in subclause (2)

(2) A microchip referred to in subclause (1) shall -

- (a) contain; or
- (b) contain information that may be used to obtain,

the name of a keeper of the cat and a current address or telephone number of the keeper.

No interference with identification

2.4 A person, other than a keeper of the cat or a person acting with a keeper's authority, shall not without reasonable excuse interfere with or remove the means by which a cat is identified under clause 2.2.

Address of keeper

2.5 For the purpose of giving a notice to a keeper of an identified cat, the keeper's address is to be taken to be that ascertained from the cat's collar or tag or on or obtained from the microchip.

PART 3 – PERMITS FOR KEEPING CATS

Interpretation

3.1 In this Part, and for the purposes of applying the definition of “cattery” in clause 1.3 –

"cat" does not include a cat less than 3 months old.

Cats for which permit is required

3.2 (1) A person shall not –

- (a) unless subclause (2) or (3) applies, keep 3 or more cats on any premises; or
- (b) use any premises as a cattery,

except in accordance with a valid permit in relation to those premises.

(2) A person shall not keep more than 1 cat on any premises in a Fauna Protection Buffer Zone except in accordance with a valid permit in relation to those premises.

(3) A permit is not required under subclause (1)(a) or (2) if the premises concerned are-

- (a) a refuge of the RSPCA or of any other animal welfare organisation;
- (b) an animal pound which has been approved by the City;
- (c) a veterinary surgery; or
- (d) the subject of an exemption granted by the City.

Application for permit

3.3 An application for a permit under clause 3.2 shall be -

- (a) made by an occupier of premises in relation to those premises;
- (b) in a form approved by the City;
- (c) accompanied by any fee imposed and determined by the City under and in accordance with sections 6.16 to 6.19 of the Act; and
- (d) 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.

Refusal to determine application

3.4 The City may refuse to determine an application for a permit if it is not made in accordance with clause 3.3.

Factors relevant to determination of application

3.5 In determining an application for a permit the City may have regard to -

- (a) the physical suitability of the premises for the proposed use;
- (b) the suitability of the zoning of the premises for the proposed use;
- (c) the structural suitability of any enclosure in which any cat is to be kept;
- (d) the likelihood of a cat causing nuisance, inconvenience, or annoyance to the occupiers of adjoining land;
- (e) the proximity of the premises to a Cat Prohibited Area or a Fauna Protection Buffer Zone;
- (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) such other factors which the City may consider to be relevant in the circumstances of the particular case.

Decision on application

3.6 (1) The City may -

- (a) approve an application for a permit subject to the conditions referred to in clause 3.7; or
- (b) refuse to approve an application for a permit.

(2) If the City approves an application under subclause (1)(a), then it shall issue to the applicant a permit in the form determined by the City.

(3) If the City refuses to approve an application under subclause (1)(b), then it is to advise the applicant accordingly in writing.

Conditions

3.7 (1) Every permit is issued subject to the following conditions –

- (a) each cat kept on the premises to which the permit relates shall be an identified cat;
- (b) each cat may be required to be contained on the premises unless under the control of a person; and
- (c) the premises shall be maintained in good order and in a clean and sanitary condition.

(2) In addition to the conditions referred to in subclause (1), every permit to keep 3 or more cats on premises or to keep more than one cat in a Fauna Protection Buffer Zone is issued subject to the following conditions -

- (a) adequate space shall be provided on the premises for the exercise of the cats; and
- (b) the permit holder shall not substitute or replace any cat once that cat-
 - (i) dies; or
 - (ii) is permanently removed from the premises,

without first obtaining the consent of the City.

(3) In addition to the conditions referred to in subclause (1), every permit to use premises as a cattery is issued subject to the following conditions -

- (a) any enclosure for the cats shall be structurally sound, have impervious flooring, be well lit and ventilated;
- (b) the premises shall have a feed room, wash area, isolation cages and maternity section;
- (c) materials used in structures are to be of a type approved by the City;
- (d) the internal surfaces of walls are, where possible, to be smooth, free from cracks, crevices and other defects;
- (e) all fixtures, fittings and appliances are to be capable of being easily cleaned, resistant to corrosion and constructed to prevent the harbourage of vermin;
- (f) washing basins and running hot and cold water shall be available;
- (g) the maximum number of cats to be kept on the premises;
- (h) the permit holder shall keep an entry book recording in respect of each cat the-
 - (i) date of admission;
 - (ii) date of departure;
 - (iii) breed, age, colour and sex; and
 - (iv) name and residential address of a keeper;
- (i) the permit holder shall produce the entry book for inspection on the request of an authorized person; and
- (j) enclosures shall be thoroughly cleaned each day and disinfected at least once a week.

(4) In addition to the conditions subject to which a permit is to be issued under this clause, a permit may be issued subject to such other conditions as the City considers appropriate, with such conditions being set in accordance with the objects of the local law.

No contravention of condition

3.8 Subject to a defence under clause 10.4, a keeper shall not contravene a condition of a permit.

Amended 225 of 2001

Notice to keep cat on premises

3.9 (1) A person may give a complaint in the form of a declaration made under section 106 of the Evidence Act 1906 to the City –

- (a) alleging that at a particular date he or she saw a cat outside of premises where the cat is ordinarily kept or is ordinarily permitted to live;
- (b) alleging that the cat was not under the control of any person;
- (c) giving a description of the cat;
- (d) stating how he or she knows that the cat is ordinarily kept or is ordinarily permitted to live at the premises;
- (e) stating whether any other person saw the cat outside of the premises and, if so, giving details of that person; and
- (f) giving such other details as the City may require.

(2) Where the City receives a complaint under subclause (1), then the City shall give a permit holder, and may give any other keeper of the cat a notice to keep the cat on the premises except where it is under the control of a keeper, if -

- (a) the cat is the subject of a permit;
- (b) the premises are the subject of the same permit; and
- (c) 2 or more complaints are received from 2 or more occupiers of different premises.

Amended 225 of 2001

(3) If a keeper of a cat is given a notice under subclause (2), then every keeper of the cat is to be taken to have been given the notice.

(4) Subject to a defence under clause 10.4, where a notice has been given to a keeper of a cat under subclause (2), if the cat is outside of the premises at any time subsequent to the issuing of the notice and is not under the control of a keeper, then every keeper of the cat at that time commits an offence.

Amended 225 of 2001

Note: A statutory declaration may be made before a Justice of the Peace or by virtue of the *Declarations and Attestations Act 1913*, before the persons listed in the Schedule to that Act, including the CEO and the Deputy CEO of the City, a Councillor of the City, a teacher, a solicitor, a police officer, a medical practitioner, a pharmaceutical chemist and a real estate agent.

Duration of permit

3.10 Unless otherwise specified in a condition on a permit, a permit commences on the date of issue and is valid unless and until it is revoked.

Revocation

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

Permit not transferable

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

PART 4 - CAT PROHIBITED AREAS

Designation of Cat Prohibited Area

4.1 (1) The City may designate land as an area on which cats are prohibited from entering or remaining by –

- (a) reviewing the local law including formal public consultation, and
- (b) including the land in Schedule 1.

(2) In designating land for the purpose of subclause (1), the City may have regard to the following matters in relation to the land –

- (a) whether the land is greater than 1 hectare in area;
- (b) the nature of the fauna on the land;
- (c) the nature of the vegetation on the land;
- (d) whether the land has been recognised by any authority as having vegetation or fauna of local, regional or State significance; and
- (e) whether the land is land to which the *Conservation and Land Management Act 1984* applies under section 5 of that Act.

Cat not to be in Cat Prohibited Area

4.2 (1) A cat shall not be in a Cat Prohibited Area.

(2) If a cat is at any time in a Cat Prohibited Area, subject to a defence under clause 10.4, every keeper of the cat at that time commits an offence.

Amended 225 of 2001

PART 5 - REMOVAL AND IMPOUNDING OF CATS

Division 1 - Register of removed and impounded cats

Register

5.1 (1) The City is to keep a record of removed and impounded cats (the “Register”).

(2) The Register is to contain the following information about each impounded cat -

- (a) the breed and sex of the cat;
- (b) the colour, distinguishing markings and features of the cat;
- (c) if known, the name and address of its keeper;
- (d) the date and time of removal;
- (e) the name of the person who removed the cat;
- (f) the reason for the removal; and
- (g) the date of release or disposal.

Application of sections 5.94 and 5.95 of the Act

5.2 The Register is taken to be information under section 5.94(u)(i) of the Act for the purpose of applying sections 5.94 and 5.95 of the Act to the Register.

Note: Sections 5.94 and 5.95 of the Act allow the public to inspect certain documents, but qualify the circumstances in which they may do so and the state in which the documents must be produced. For instance, the Register does not need to be current at the time of inspection.

Division 2 – Destruction of cat container

No destruction of container for cats

5.3 A person shall not destroy, break into, damage, or in any other way interfere with any container used for the purpose of catching, holding or conveying cats.

Division 3 - Effect of payment of impounding expenses

Effect of payment of impounding expenses

5.4 The payment of any costs by a keeper in respect of the removing, impounding and keeping of a cat does not relieve the keeper of any liability to a penalty for an offence against any provision of this local law.

Note: The impounding of animals is dealt with in Part 3, Division 3, Subdivision 4 of *the Local Government Act 1995* and regulation 29 of the *Local Government (Functions and General) Regulations 1996*.

PART 6 - DESTRUCTION OF CATS

Request to destroy cat

- 6.1 (1) A keeper of a cat may request the City to destroy the cat.
- (2) The request under subclause (1) must –
- (a) be in the form determined by the City;
 - (b) be signed by the person making the request; and
 - (c) state -
 - (i) that the person making the request is a keeper of the cat;
 - (ii) the name and residential address of the keeper;
 - (iii) a description of the cat including its breed, colour, sex and age;
 - (iv) the reason for requesting the destruction; and
 - (v) that the person making the request indemnifies the City in respect of any costs or liabilities incurred by the City arising from the destruction of the cat.
- (3) The City is to destroy a cat where a request is made in accordance with subclause (2).

Fee for destruction

6.2 The City may charge a keeper a fee imposed and determined under and in accordance with sections 6.16 to 6.19 of the Act for the destruction of a cat under clause 6.1.

PART 7 - ABANDONMENT OF CATS

No abandonment

7.1 A person shall not abandon a cat.

Delivery to an authorised person not abandonment

7.2 A person who delivers a cat into the custody of an authorised person is to be taken not to have abandoned the cat.

PART 8 - EVIDENCE

Averment that person a keeper

8.1 In proceedings for an offence against any provision of this local law an averment in the complaint that at a specified time a person was a keeper of the cat is evidence of that fact in the absence of proof to the contrary.

Cat taken to not be contained on premises

8.2 In proceedings for a breach of clause 3.7(1)(b), where there is evidence that a cat has been outside the relevant premises when it was not under the control of a person, on more than one occasion, then the cat is to be taken to not be contained on the premises.

PART 9 - OBJECTIONS AND APPEALS

Objection and appeal rights

9.1 A person adversely affected by a decision made by the City under Part 3, including a decision to refuse to approve an application for a permit or to revoke a permit, may be entitled to object or appeal against the decision under the Act.

Note: Objection and appeal rights are dealt with in Part 9, Division 1 of the Act and in regulations 33 and 34 of the *Local Government (Functions and General) Regulations 1996*.

PART 10 - OFFENCES, DEFENCE AND PENALTIES

Division 1 - General

Offences

10.1 (1) Any person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.

(2) Any person who commits an offence under this local law is liable, on conviction, to a penalty not exceeding \$5,000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.

Amended 225 of 2001

Division 2 – Infringement notices and modified penalties

Prescribed offences

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

(2) The amount appearing in the fourth column of Schedule 2 adjacent to a clause is the modified penalty payable in respect of an offence against that clause if the offence does not occur in a Fauna Protection Buffer Zone or a Cat Prohibited Area.

(3) The amount appearing in the fifth column of Schedule 2 adjacent to a clause is the modified penalty payable in respect of an offence against that clause if the offence occurs in a Fauna Protection Buffer Zone or a Cat Prohibited Area.

Forms

10.3 (1) An infringement notice given under section 9.16(1) of the Act is to be in the form of Schedule 3.

(2) A notice sent under section 9.20 of the Act withdrawing an infringement notice is to be in the form of Schedule 4.

Note: The issue of infringement notices, their withdrawal and the effect of payment of a modified penalty are dealt with in Subdivision 2 of Division 2 of Part 9 of the *Local Government Act 1995*.

Division 3 – Defence

10.4 It is a defence to a charge of an offence of contravening clause 3.8, 3.9(4), 4.2 if the keeper charged satisfies the court that at the material time some other person (whom he shall identify) over the age of 18 years was the keeper of the cat(s).

Amended 225 of 2001

SCHEDULE 1

Cat Prohibited Areas

1. Star Swamp
2. Carine Open Space
3. Gwelup Open Space
4. Trigg Bushland
5. Herdsman Lake
6. Jackadder Lake
7. Dianella Regional Open Space
8. Hamersley Golf Course
9. Cottonwood Crescent Bushland
10. Mirrabooka Open Space
11. Beach Reserves

[Reserve No's or further identifying details are to be specified.]

SCHEDULE 2

Modified Penalties

ITEM No	CLAUSE No	NATURE OF OFFENCE	MODIFIED PENALTY	MODIFIED PENALTY — within Cat Prohibited Area or Fauna Protection Buffer Zone
1.	3.2(1)(a)	Failure of an occupier to hold a permit	\$ 250.00	\$ 500.00
2.	3.2(1)(b)	Use of premises as cattery without permit	250.00	500.00
3.	3.8	Breach of a condition of a permit	250.00	500.00
4.	3.9(4)	Breach of notice to keep a cat on premises	250.00	500.00
5.	4.2	Cat in Cat Prohibited Area		500.00
6.	7.1	Abandonment of cat	250.00	500.00

SCHEDULE 3

**Local Government Act 1995
City of Stirling
Keeping and Control of Cats Local Law 1999**

INFRINGEMENT NOTICE

Serial No.
Date/...../.....

To: (1)

of: (2)

It is alleged that on/...../..... at (3)
.....am/pm

at (4)

.....
...

you committed the following offence –

.....
.....

contrary to clause of the City of Stirling Keeping and Control of Cats Local Law 1999.

The modified penalty for the offence is \$

If you do not wish to have a complaint of the alleged offence heard and determined by a court, the amount of the modified penalty must be paid within a period of 28 days after the giving of this notice. The modified penalty may be paid by either posting this form together with the amount of the modified penalty to the Chief Executive Officer of the City of Stirling at City Administrative Centre, Civic Place, Stirling or by paying the amount of the modified penalty to an authorised person of the City of Stirling at City Administrative Centre, Civic Place, Stirling between the hours of 9am to 4pm Monday to Friday.

If you take no action this infringement notice may be registered with the Fines Enforcement Registry after which your driver’s licence or any vehicle licence held by you may be suspended. If the matter is registered with the Registry additional costs will also be payable.

If the above address is not your current address, or if you change your address, it is important that you advise us immediately. Failure to do so may result in your driver’s licence or any vehicle licence you hold being suspended without your knowledge.

Name and title of authorised person giving the notice

.....
.....

Signature:

Insert

(1) *Name of alleged offender
committed*

(3) *Time at which offence allegedly
committed*

(2) *Address of alleged offender
committed*

(4) *Place at which offence allegedly
committed*

SCHEDULE 4

Local Government Act 1995
City of Stirling
Keeping and Control of Cats Local Law 1999

NOTICE OF WITHDRAWAL OF INFRINGEMENT NOTICE

Serial No.

Date/...../.....

To: (1)

.....

of: (2)

.....

Infringement Notice No..... dated/...../..... for the alleged offence of has been withdrawn.

The modified penalty of \$

- * has been paid and a refund is enclosed.
- * has not been paid and should not be paid.

* Delete as appropriate

Name and title of authorised person giving the notice

.....
.....

Signature :

Insert

(1) *Name of alleged offender to whom infringement notice was given*

(2) *Address of alleged offender*

Dated this 31st day of December, 1999.

The Common Seal of the City of Stirling)
was affixed by authority of a resolution)
of the Council in the presence of:)

.....
Mayor

.....
Chief Executive Office