



LOCAL GOVERNMENT ACT 1995

CAT ACT 2011

**CITY OF KALGOORLIE-BOULDER**

**CAT LOCAL LAW 2016**

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# LOCAL GOVERNMENT ACT 1995

## CAT ACT 2011

### CITY OF KALGOORLIE-BOULDER CAT LOCAL LAW 2016

Under the powers conferred by the *Local Government Act 1995*, the *Cat Act 2011*, and under all other powers enabling it, the City of Kalgoorlie-Boulder resolved on 12 September 2016 to make the following local law.

#### PART I-PRELIMINARY

##### 1.1 Citation

This local law may be cited as the *City of Kalgoorlie-Boulder Cat 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 Application

This local law applies throughout the district.

##### 1.4 Repeal

Section 5.2.4 of the *City of Kalgoorlie Boulder Health Local Law 2001* as gazetted on 7 June 2001 is repealed.

##### 1.5 Definitions

In this local law unless the context otherwise requires-

**Act** means the *Cat Act 2011*;

**animal welfare organisation** means a non-government, not-for-profit organisation with the welfare of animals as their reason for existence;

**applicant** means the occupier of the premises who makes an application for a permit under this local law;

**approved cat breeder** has the meaning given to it in the Act;

**authorised person** means a person appointed by the local government to perform all or any of 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** has the meaning given to it in the Act;

**cattery** means any premises where 3 or more cats are boarded, housed or trained temporarily, usually for profit, and where the occupier of the premises is not the ordinary owner 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) secured in a cage; or
- (c) any other means of preventing escape;

**group dwelling** (commonly referred to as a duplexes, villas or townhouses) means a dwelling that is 1 of a group of 2 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 Kalgoorlie-Boulder;

**multiple dwelling** (often called flats, apartments or units) meaning a dwelling in a group of more than 1 dwelling on a lot where any part of a dwelling is vertically above part of any other but-

- (a) does not include a group dwelling; and
- (b) includes any dwellings above the ground floor in a mixed use development;

**nuisance** means:

- (a) an activity or condition which is harmful or annoying and which gives rise to legal liability in the total 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;

**permit** means a permit issued by the local government under clause 3.7;

**permit holder** means a person who holds a valid permit under clause 3.7;

**pet shop** means a shop or place used for the conduct of a business, in the course of which an animal is kept for the purposes of sale;

**premises** has the meaning given to it in the Act;

**public place** has the meaning given to it in the Act;

**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 ;

**single dwelling** means a house that stands alone on its own parcel of land; and

**veterinary hospital** means any premises at which veterinary surgery is practised at which animals receive treatment , nursing care, and other services required for the reception, treatment and care of animals suffering from disease or injury or in need of surgical or medical treatment or assistance .

## **PART 2-CONTROL OF CATS**

### **2.1 Cats in public places**

- (1) A cat shall not be permitted in a public place, if in the opinion of an authorised person, the cat is causing a nuisance.
- (2) If a cat is at any time in a public place in contravention of subclause (1) -
  - (a) the owner of the cat commits an offence; and
  - (b) an authorised person may seize and impound the cat and deal with the cat pursuant to the Act.

### **2.2 Cats in other places**

- (1) A cat shall not be in any place that is not a public place if:
  - (a) consent to its being there has not been given by the occupier, or a person authorised to consent on behalf of the occupier; and/or
  - (b) the cat, in the opinion of an authorised person, is causing a nuisance .
- (2) If a cat is at any time in a place in contravention of subclause (1) -
  - (a) the owner of the cat commits an offence; and

- (b) an authorised person may seize and impound the cat and deal with the cat pursuant to the Act.

### **2.3 Cat causing a nuisance**

- (1) The owner of a cat, or any other person in control of a cat, shall not allow a cat to 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 or any other person apparently in control 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 on the notice which period 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. If the person named in the notice fails to comply they commit an offence.

## **PART 3-PERMITS FOR KEEPING CATS**

### **3.1 Interpretation**

In this Part, and for the purposes of applying the definition of "cattery" in Part 3, a **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 3 or more cats in any dwelling (whether or not this dwelling is a group dwelling, multiple dwelling or single dwelling premises);
  - (b) to use any premises as a cattery; or
  - (c) to be an approved cat breeder.
- (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 established by and is maintained by the local government for the impounding of cats;
  - (c) a veterinary hospital; or
  - (d) a pet shop.

### **3.3 Transitional provisions**

Where an owner has 3 or more cats in their dwelling or premises prior to this local law coming into operation they are not required to have a permit; however they will not substitute or replace any cat (in excess of 2 cats) once that cat:

- (a) dies; or
- (b) is permanently removed from the dwelling.

### **3.4 Application for permit**

An application for a permit under clause 3.2 shall be-

- (a) made by an occupier of a dwelling or premises in relation to that dwelling or premises;
- (b) in a form approved by the local government , describing and specifying the number of cats to be kept at the dwelling or on the premises;
- (c) accompanied by the plans of the dwelling or premises to which the application relates, to the specification and satisfaction of the local government;
- (d) accompanied by the consent in writing of the owner of the dwelling or premises, where the occupier is not the owner of the dwelling or premises to which the application relates;
- (e) accompanied by the application fee for the permit nit determined by the local government from time to time; and
- (f) accompanied by written evidence that either the applicant or another person who will have charge of the cats, will reside at the dwelling or on the premises or, in the opinion of the local government, sufficiently close to the dwelling or premises so as to maintain effective control of the cats and ensure their health and welfare.

### 3.5 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 3.4.

### 3.6 Factors relevant to determination of application

- (1) In determining an application for a permit the local government may have regard to-
  - (a) the physical suitability of the dwelling or premises for the proposed use;
  - (b) the suitability of the zoning of the dwelling or premises under any scheme which applies to the premises for the use;
  - (c) the environmental sensitivity and general nature of the location surrounding the dwelling or 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 the occupiers 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 use;
  - (h) any submissions received under subclause (2) within the time specified in subclause (2); and
  - (i) such other factors which the local government may consider to be relevant in the circumstances of the particular case.
- (2) The local government may require an applicant to-
  - (a) consult with adjoining landowners; and
  - (b) advise the 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.

### 3.7 Decision on application

- (1) The local government may-
  - (a) approve an application for a permit, in which case it shall approve it subject to the conditions in clause 3.8, and may approve it subject to any other conditions it considers fit; or
  - (b) 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 is to advise the applicant accordingly in writing.

### 3.8 Conditions

- (1) Every permit is issued subject to the following conditions-
  - (a) each cat shall be contained at the dwelling or on the premises unless under the effective control of a person;
  - (b) the permit holder will provide adequate space for the exercise of the cats;
  - (c) the dwelling or premises shall be maintained in good order and in a clean and sanitary condition; and
  - (d) 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) A permit holder who fails to comply with a condition of a permit commits an offence.

### 3.9 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 dwelling or premises to which the permit relates.

### **3.10 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.

### **3.11 Permit not transferable**

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

## **PART 4-IMPOUNDING OF CATS**

### **4.1 Cat management facility**

- (1) The local government may establish and maintain a cat management facility or facilities, managed by an authorised person for the impounding of cats and the subsequent management of those cats under this local law.
- (2) The local government may determine from time to time:
  - (a) the times when a cat management facility will be open for the reception and release of cats; and
  - (b) times for the sale of cats from the facility.
- (3) An authorised person, referred to in subclause (1), is to be in attendance at the facility for the release of impounded cats at the times and on the days of the week as are determined by the CEO.

### **4.2 Impounding register**

- (1) The local government is to keep a proper record of impounded cats (the "Impounding Register").
- (2) The Impounding Register is to contain the following information about each impounded cat:
  - (a) if known, 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 the owner;
  - (d) the date, time and location of seizure and impounding;
  - (e) the name and address of the authorised person who impounded the cat and, if applicable, the person who delivered a cat for impounding;
  - (f) the reason for the impounding;
  - (g) a note of any direction made by an authorised person under clause 2.4 relating to the cat; and
  - (h) the date of the sale, release or destruction of the cat.
- (3) The Impounding Register is to be available for inspection by the public.

### **4.3 Charges and costs**

The following are to be imposed and determined by the local government under sections 6.16 to 6.19 of the *local Government Act 1995*-

- (a) the charges to be levied under section 31 of the Act relating to the seizure, impounding, caring, microchipping, sterilisation or destruction/disposal of a cat; and
- (b) the additional fee payable under section 31 of the Act where a cat is released or sold at a time or on a day other than those determined under clause 4.1(2).

### **4.4 Release of impounded cats**

- (1) A claim for the release of a cat seized and impounded is to be made to the authorised person referred to in clause 4.1(1) or in the absence of that person, to the CEO.



- (2) The authorised person referred to in clause 4.1(1) is not to release a cat seized and impounded to any person unless that person has produced, to their satisfaction, evidence-
- (a) of his or her ownership of the cat or of his or her authority to take delivery of it;
  - (b) that he or she is the person identified as the owner on a microchip implanted in the cat;
  - (c) of proof of registration of the cat in accordance with the Act;
  - (d) if a permit under Part 3 is required, proof of obtaining the permit; and
  - (d) of payment of the charges and costs imposed by the local government in accordance with clause 4.3.

#### **4.5 No breaking into or destruction of a cat management facility**

- (1) In this clause, a reference to a *person* does not include the person authorised in clause 4.1(1).
- (2) A person who-
- (a) releases or attempts to release a cat from a cat management facility established under clause 4.1(1);  
or
  - (b) destroys, breaks into, damages or in any way interferes with or renders ineffective-
    - (i) any cat management facility established under clause 4.1; or
    - (ii) any vehicle or container used for the purpose of catching, holding or conveying a seized cat,
- commits an offence.

### **PART 5-MISCELLANEOUS**

#### **5.1 Giving of a notice**

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

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

#### **5.2 Content of a notice**

The contents of a notice given under section 5.1 can be:

- (a) ascertained from the person directly;
- (b) recorded by the local government under the Act; or
- (c) ascertained from enquiries made by the local government.

### **PART 6-OBJECTIONS AND REVIEW**

#### **6.1 Objections and review**

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 the decision under Division I of Part 9 of the *Local Government Act 1995*.

### **PART 7-OFFENCES AND PENALTIES**

#### **7.1 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) Any person who commits an offence under this local law is liable, on conviction, to a penalty not exceeding \$5000, 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.

#### **7.2 Prescribed offences**

An offence against a clause specified in Schedule 2 is a prescribed offence for the purposes of section 84 of the Act. The amount appearing directly opposite each such offence is the modified penalty in relation to that

offence.

### **7.3 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 62 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*.

**A. Permit to keep 3 or more cats**

*Additional conditions*

The written consent to the application for a permit of the adjoining multiple dwellings has been obtained; and

- (1) The written consent to the application from the owner of the premises, if not the applicant, has been obtained; and
- (2) Without the consent of the local government, the permit holder will not substitute or replace any cat once that cat-
  - (a) dies; or
  - (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 owner;
- (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; and
- (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).

**C. Permit for Approved Cat Breeder**

*Additional conditions*

- (1) Required to keep records of all purchases and or transfers of cat/s for a period of 2 years, including but not limited to the purchasers' name and address, and the cat/s microchip number; and
- (2) Premises may be inspected annually.

**Schedule 2 - Modified penalties**

[Clause 7.2]

<b>Item No.</b>	<b>Clause</b>	<b>Nature of offence</b>	<b>Modified Penalty \$</b>
1	2.1(2)(a)	Cat in a public place causing a nuisance	\$200
2	2.2 (2)(a)	Cat in a place that is not a public place without consent and/or is causing a nuisance	\$200
3	2.3(4)	Failure to comply with a notice to abate a nuisance	\$200
4	3.2(1)	Failure to obtain the proper permit for the keeping of 3 or more cats	\$200
5	3.8(3)	Failure to comply with the conditions of a permit	\$200
6	4.5(2)(a)	Attempting to or causing an unauthorised release a cat from a cat management facility	\$400
7	4.5(2)(b)	Interfering with any cat management facility, vehicle or container used for the purpose of catching, holding or conveying a seized cat	\$400

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