

This local law was amended by the Governor's *Local Government Amendment (Cats) Local Law 2015*, as follows:

- a) clause 10.1, 10.2 and 10.3 are deleted;
- b) items 8 and 9 of Schedule 2 are deleted; and
- c) items 8 and 9 from Form 1, Schedule 3 are deleted.

The amendment local law was published in the *Government Gazette* on 24 July 2015 and came into operation the following day.

Local Government Act 1995

Shire of Mundaring

KEEPING OF CATS LOCAL LAW

Under the powers conferred upon it by the Local Government Act 1995 and by all other powers enabling it the Council of the Shire of Mundaring hereby records having resolved on 25 January 2005 to make the following local law.

PART 1 - PRELIMINARY

Division 1 – Introductory Matters

Title

1.1 This local law may be cited as the *Shire of Mundaring Keeping of Cats Local Law*.

Objectives

1.2 The objectives of this local law are to –

- (a) control the number of cats kept on premises;
- (b) promote responsible cat ownership;
- (c) reduce the nuisance to the community caused by cats; and
- (d) promote the protection of native fauna.

Interpretation

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 this local law;
“approved”	means approved by the Local Government;
“authorised person”	means a person authorised by the Local Government to perform the functions conferred on an authorised person under this local law;
“cattery”	means land or building where more than 3 cats over the age of 3 months are kept and is the subject of a valid planning approval granted under a Town Planning Scheme or which is a non-conforming use that may continue under a Scheme;
“CEO”	means the Chief Executive Officer of the Shire of Mundaring;

“Council”	means the Council of the Local Government;
“district”	means the district of the Local Government;
“fauna protection buffer zone”	means the land described in Schedule 1;
“keeper”	in relation to a cat means each of the following persons – <ul style="list-style-type: none"> (a) the owner of the cat; (b) a person by whom the cat is ordinarily kept; (c) a person who keeps the cat, or has the cat in her or his possession for the time being; (d) a person who occupies any premises in which a cat is ordinarily kept or ordinarily permitted to live; (e) a permit holder of a permit which relates to the cat;
“Local Government”	means the Shire of Mundaring;
“nuisance”	means behaviour of a cat, that in the opinion of an authorised person is contrary to reasonable standards of behaviour expected of an animal in the locality of the premises where the cat is normally resident and includes where a cat excreted or urinates on premises not owned or occupied by its keeper;
“permit”	means a permit issued by the Local Government under section 3.6;
“permit Holder”	means a person who holds a valid permit under section 3.6;
“premises”	includes – <ul style="list-style-type: none"> (a) any land and any improvements; and (b) any part of any building in separate ownership or separate occupation, including any unit, flat, house, duplex, apartment or group or multiple dwelling;
“public place”	means any place to which the public has access whether or not it is on private property;
“RSPCA”	means the Royal Society for the Prevention of Cruelty to Animals of Western Australia (Inc.);
“Scheme”	means a town planning scheme of the Local Government made by it under the <i>Town Planning and Development Act 1928</i> .

Application

1.4 This Local Law applies throughout the district of the Shire of Mundaring.

Repeal

1.5 The *Shire of Mundaring Keeping and Control of Cats Local Law*, published in the *Government Gazette* of 10 April 2003 is repealed.

PART 2 - IDENTIFYING CATS

Division 1 – Identifying Cats

Keeper of a Cat Shall Identify it

2.1 A keeper of a cat shall identify the cat by one of the methods described in section 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 a microchip implanted containing information will provide the name and address of a keeper of the cat.

Cats that Do Not Need to be Identified

2.3 Section 2.1 does not apply to a cat –

- (a) kept at any refuge conducted by the RSPCA or any other animal welfare organisation;
- (b) kept at an animal pound which has been approved by the Local Government;
- (c) kept at a pet shop;
- (d) kept at a veterinary surgery; or
- (e) which is less than 3 months old.

No Interference with Identification

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

PART 3 – PERMITS FOR KEEPING CATS ON PREMISES

Division 1 – Permits for Keeping Cats on Premises

Interpretation

3.1 In this Part,

“**Cat**” does not include a cat less than 3 months old.

When a Permit to Keep Cats is Required

3.2 (1) Subject to subsection (2), a person shall not keep –

- (a) more than one cat on any premises in a Fauna Protection Buffer Zone except in accordance with a valid permit; or
 - (b) more than two cats on any premises not in a Fauna protection Buffer Zone except in accordance with a valid permit.
- (2) A permit is not required under subsection (1) if the premises concerned are –
- (a) a refuge of the RSPCA or any other approved animal welfare organisation;
 - (c) an animal pound which has been approved by the Local Government;
 - (c) a pet shop;

- (d) a veterinary surgery; or
- (e) a cattery.

Application for Permit

- 3.3 An application for a permit shall –
- (a) be made by an occupier of premises in relation to those premises;
 - (b) specify the number of cats to be kept on the premises;
 - (c) describe the cats which are to be kept on the premises and state whether or not those cats are identified under section 2.1;
 - (d) be in a form approved by the Local Government;
 - (e) be accompanied by any fee imposed and determined by the Local Government under and in accordance with sections 6.16 to 6.19 of the Act; and
 - (f) be 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.

Determining an Application

- 3.4 The Local Government may refuse to determine an application for a permit if it is not made in accordance with section 3.3.

Factors Relevant to Determination of Application

- 3.5 (1) In determining an application for a permit the Local Government may have regard to –
- (a) the physical suitability of the premises for the use proposed in the application ("use");
 - (b) the zoning of the premises under any Scheme which applies to the premises;
 - (c) the suitability of any enclosure in which any cat is to be kept;
 - (d) the likelihood of a cat causing a nuisance or inconvenience or annoyance to the occupiers of adjoining land;
 - (e) the likely effect on the amenity of the surrounding area of the use;
 - (f) the likely effect on the local environment including any pollution or other environmental damage which may be caused by the use;
 - (g) any submissions received under subsection (2) within the time specified in subsection (2); and
 - (h) such other factors which the Local Government may consider to be relevant in the circumstances of the particular application.
- (2) The Local Government may require an applicant to –
- (a) consult with her or his adjoining landowners; and
 - (b) advise the adjoining landowners that they may make a submission to the Local Government on the application for the permit within seven (7) days of receiving that advice.

Decision on Application

- 3.6 (1) The Local Government may –
- (a) approve an application for a permit subject to the conditions contained in section 3.7 and 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 subsection (1) (a) the permit shall be issued to the applicant in the form determined by the CEO.
- (3) If the Local Government refuses to approve an application under subsection (1) (b), then it is to advise the applicant accordingly in writing.

Conditions

- 3.7 Every permit shall be 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 shall be contained on the premises and shall not leave the premises unless it is under the control of a keeper of the cat;
 - (c) the premises shall be maintained in good order and in a clean and sanitary condition; and
 - (d) 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 Local Government, and if that consent is obtained, the new cat shall be subject to the terms and conditions of the permit.

Duration of Permit

- 3.8 Unless otherwise specified, a permit commences on the date of issue and is valid unless and until –
- (a) it is revoked;
 - (b) the permit holder ceases to reside at the premises to which the permit relates.

Revocation

- 3.9 The Local Government may revoke a permit if the permit holder fails to observe any provision of this local law or a condition of her or his permit.

Permit not Transferable

- 3.10 A permit shall be personal to the applicant and neither run with the land nor be transferable or assignable to any other person or property.

PART 4 - FAUNA PROTECTION BUFFER ZONES

Designation of Fauna Protection Buffer Zones

- 4.1 The Local Government may designate land as a Fauna Protection Buffer Zone by stating a description of the land in Schedule 1.
- 4.2 In designating land for the purposes of section 4.1 the Local Government may have regard to the following matters in relation to the land –

- (a) the proximity of the land to any other land that has been recognised by any authority as having Fauna of Local, Regional or State significance, or to which section 5 of the *Conservation and Land Management Act 1984* applies;
- (b) the nature of the fauna habitat on any nearby public place;
- (c) whether there are any artificial or natural barriers between the land and the land described in (a) and (b) above; and
- (d) such other matters which the Local Government considers relevant.

PART 5 – REMOVAL AND IMPOUNDING OF CATS

Act Regulates Removal and Impounding of Cats

5.1 The removal, impounding and disposal of cats shall be in accordance with Subdivision 4 of Division 3 of Part 3 of the Act and regulation 29 of the *Local Government (Functions and General) Regulations 1996*.

Impoundment

5.2 An authorised person may –

- (a) pursue, seize, detain and impound a cat involved in contravention of Part 10; and
- (b) at any time enter upon either local government property or private property for the purpose of placing a trap to give effect to the preceding sub-section provided that no other entry shall be made upon privately owned land without the prior authority of the owner or occupier of that land.

Cat Pound

- 5.3 (1) The Local Government may establish and maintain a pound or pounds, and may approve an animal pound or cattery maintained by any person, for the impounding of cats under this local law.
- (2) An authorised person shall be in attendance at the pound for the release of cats at such times and on such days of the week as shall from time to time be determined by the CEO.

Register

- 5.4 (1) The Local Government is to keep a record of impounded cats (the “Register”).
- (2) The Register is to contain the following information about each impounded cat -
- (a) the breed and if known, the sex of the cat;
 - (b) the colour, distinguishing markings and features of the cat;
 - (c) the date and time of its impoundment;
 - (d) the name of the person who impounded the cat;
 - (e) the reason for the impoundment;
 - (f) the place from where it was impounded;
 - (g) if known, the name and address of its keeper; and
 - (h) the date of release or disposal.

No Unauthorised Release of Impounded Cat

- 5.5 Unless the person is authorised by the Local Government to do so a person must not –
- (a) release or attempt to release a cat from a pound; or
 - (b) destroy, break into, damage or in any other way interfere with a pound; or
 - (c) destroy, break into, damage or in any other way interfere with any vehicle, container or device used for the purpose of catching, holding or conveying cats.

Effect of payment of impounding expenses

- 5.6 The payment of any fees by a keeper in respect of the impounding and keeping of a cat does not relieve the keeper of any liability to pay a penalty for an offence against any provisions of this local law.

Permit May Need to be Obtained before Collection of Cat

- 5.7 Where –
- (a) a keeper wishes to collect a cat within 7 days of a notice having been given under sections 3.42 (1) (b) or 3.44 of the Act; and
 - (b) a permit is required for the keeping of the cat,
- the cat shall not be released until the keeper obtains a permit.

Impoundment and Disposal

- 5.8 Where a cat has been impounded pursuant to this local law:
- (a) A cat shall not be returned to the keeper unless all fees, fines and costs due in respect of the cat have been paid and, if necessary, the proper permit issued pursuant to Part 3 of this local law.
 - (b) If the cat is not claimed by a person lawfully entitled to do so within seven days of the date of impoundment –
 - (i) the cat may be destroyed by the Shire; or
 - (ii) the cat may be disposed of with the proceeds of such sale (if any) being the absolute property of the Shire.
 - (c) The Shire may dispose of diseased or verminous cats at any time after impoundment without being liable for compensation to any keeper or other person.

PART 6 – ABANDONMENT OF CATS

Delivery to an Authorised Person not Abandonment

- 6.1 A person who delivers a cat into the custody of an authorised person is not to be taken as having abandoned the cat.

PART 7 - MISCELLANEOUS

Giving of a Notice

- 7.1 A notice served 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 their last known address.

Immunity of Persons acting in Good Faith

7.2 No proceeding, whether civil or penal, shall lie against the Local Government, an authorised person or any person for any act, matter or thing done, or commanded to be done, in the exercise or purported exercise of a power or the performance of a duty under the provisions of the local law, or for any act, matter or thing omitted to be done, unless that act, matter or thing was done, commanded to be done, or omitted to be done, maliciously or without reasonable and probable cause.

PART 8 - EVIDENCE

Averment that a Person is a Keeper

8.1 In proceedings for any 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 the fact in the absence of proof to the contrary.

Defence to averment that a Person is a Keeper

8.2 It is a defence to a charge of an offence of contravening any section of this local law, 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).

PART 9 – OBJECTIONS AND APPEALS

Objection and Appeal Rights

9.1 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 Act.

PART 10 – OFFENCES AND PENALTIES

Division 1 – General

Offences

~~10.1 A cat shall not be in a public place unless—~~

- ~~(a) it is held by a person over the age of 18 years; or~~
- ~~(b) it is securely tethered or contained in a receptacle; or~~
- ~~(c) it is in a motor vehicle.~~

~~10.2 If a cat is at any time in a public place in contravention of this provision, every keeper of the cat commits an offence unless the person satisfies the Court that he or she took all reasonable precautions and exercised all due diligence to avoid the contravention or in the case of a keeper that at the material time, the cat was in the possession or control of some other person without the consent of the keeper, express or implied.~~

~~10.3 A cat shall not be in any place that is not a public place unless consent to its being there has been given—~~
~~(a) by the occupier or a person apparently authorised to consent on behalf of the occupier; or~~
~~(b) if the place is unoccupied, by the owner or a person apparently authorised to consent on behalf of the owner.~~

10.4 The permit holder who fails to comply with a condition of a permit commits an offence.

10.5 (i) Any person who contravenes a provision of this local law or 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.

(ii) Any person who commits an offence under this local law is liable upon 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 the day during which the offence has continued.

Division 2 – Infringement Notices and Modified Penalties

Prescribed offences

10.6 An offence against a sections specified in Schedule 2 is a prescribed offence for the purposes of section 9.16 (1) of the Act and the amount appearing directly opposite each such section is the modified penalty payable in relation to an offence against that section.

Forms

10.7 (1) The issue of infringement notices, their withdrawal and the payment of modified penalties are dealt with in Subdivision 2 of Division 2 of Part 9 of the Act.

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

(3) A notice sent under section 9.20 of the Act withdrawing an infringement notice is to be in the form of Form 2 in Schedule 3.

Schedule 2

PRESCRIBED OFFENCES AND MODIFIED PENALTIES

ITEM No.	SECTION No	NATURE OF OFFENCE	MODIFIED PENALTY
1	2.1	Failure of a keeper to identify a cat	\$100
2	2.4	Interference with or removal of the identification of a cat	\$100
3	3.2(1)(a)	Keeping more than one cat on premises in a Fauna protection Buffer Zone without permit	\$250
4	3.2(1)(b)	Keeping more than two cats on premises not in a Fauna Protection Buffer Zone without a permit	\$100
5	5.5(a)	Unauthorised release or attempted unauthorized release of impounded cat	\$250
6	5.5(b)	Destroying, breaking into, damaging or interfering with pound	\$250
7	5.5(c)	Destroying, breaking into, damaging or interfering with cat container	\$250
8	10.1	Cat in a public place	\$250
9	10.3	Cat in any place that is not a public place	\$100
10	10.4	Failure to comply with a condition of a permit	\$100

Schedule 3
Form 1
 Local Government Act 1995
 Shire of Mundaring
 KEEPING OF CATS LOCAL LAW
INFRINGEMENT NOTICE

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

To (Name of alleged offender).....
 of (address of alleged offender)
 It is alleged that at (place of alleged offence).....
 on the.....day of.....20.....
 you committed an offence indicated below, for which the modified penalty payable is as indicated below –

Item No.	Section No.	Nature of Offence	Modified Penalty	Indicate Offence Committed
1	2.1	Failure of a keeper to identify a cat	\$100	
2	2.4	Interference with or removal of the identification of a cat	\$100	
3	3.2(1)(a)	Keeping more than one cat on premises in a Fauna protection Buffer Zone without permit	\$250	
4	3.2(1)(b)	Keeping more than two cats on premises not in a Fauna Protection Buffer Zone without a permit	\$100	
5	5.5(a)	Unauthorised release or attempted unauthorized release of impounded cat	\$250	
6	5.5(b)	Destroying, breaking into, damaging or interfering with pound	\$250	
7	5.5(c)	Destroying, breaking into, damaging or interfering with cat container	\$250	
8	10.1	Cat in a public place	\$250	
9	10.3	Cat in any place that is not a public place	\$100	
10	10.4	Failure to comply with a condition of a permit	\$100	

You may dispose of this matter –

- (a) by payment of the modified penalty indicated above within 28 days after you have been given this notice, by –
 - (i) posting this form together with the amount of the modified penalty to the Chief Executive Officer, Shire of Mundaring, 7000 Great Eastern Highway, Mundaring 6073, or
 - (ii) paying the amount of the modified penalty to an authorised person of the Shire of Mundaring at the Offices of the Shire at 7000 Great Eastern Highway, Mundaring, between the hours of 9am to 4.30pm Monday to Friday, or
- (b) by having it dealt with by a court.

If this modified penalty is not paid within the time specified, court proceedings may be taken against you.

.....
 Signature of authorised person

.....
 Name of authorised person

.....
 Title of authorised person

Schedule 3
Form 2
Local Government Act 1995
Shire of Mundaring
KEEPING OF CATS LOCAL LAW
NOTICE OF WITHDRAWAL OF INFRINGEMENT NOTICE

No

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

To *(name of alleged offender)*.....
of *(address of alleged offender)*.....

Infringement Notice No _____ dated _____ for the alleged
offence of (insert description of offence) _____ 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)

Signature of authorised persons

Name of authorised person

Title of authorised person

Dated the 27th day of January 2005.

The Common Seal of the Shire of Mundaring was hereunto affixed by authority of Council.

M. N. WILLIAMS, Chief Executive Officer.

(or his delegate)

T.S. PASHLEY, Authorised Officer.
