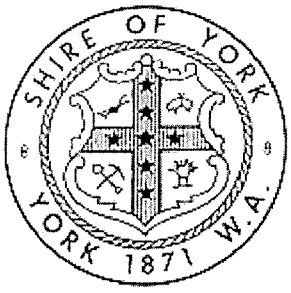
SHIRE OF YORK



CAT LOCAL LAW 2017

CAT ACT 2011
LOCAL GOVERNMENT ACT 1995
SHIRE OF YORK
CAT LOCAL LAW 2017

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CAT ACT 2011
LOCAL GOVERNMENT ACT 1995
SHIRE OF YORK
CAT LOCAL LAW 2017

Under the powers conferred by the *Cat Act 2011,* the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of York resolved on 26 February 2018 to make the following local law.

PART 1 —PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of **York** Cat Local Law 2017.*

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 Definitions

In this local law unless the context otherwise requires—

Act means the Cat Act 2011;

authorised person has the meaning given to it in the Act; *cat* has the meaning given to it in the Act; *cat management facility* means—

(a) a facility operated by a local government that is, or may be, used for keeping cats; or

(b) a facility for keeping cats that is operated by a person or body prescribed; or

(c) a facility for keeping cats that is operated by a person or body approved in writing by a local government.

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;

local government means the Shire of **York;**

multiple dwelling means any building or place designed for habitation by more than one domestic group and includes, but is not limited to, units, flats, town houses, duplexes or apartments;

notice to abate means a notice to abate a nuisance referred to in clause 3.1(2);

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's 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 2.6;

permit holder means a person who holds a permit granted under this local law;

premises has the meaning given to it in the Act;

pound owner means the person or body that manages or has control of the pound;

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

PART 2—CATS FOR WHICH A PERMIT IS REQUIRED

2.1 Interpretation

In this Part, *cat* does not include a cat less than 6 months old.

2.2 Cats for which a permit is required

(1) Subject to clause 2.2(2) an owner is required to have a permit—

(a) to keep 3 or more cats on any premises; or

(b) to use any premises as a cat management facility.

(2) a permit is not required under subclause (1) if the premises concerned are—

(a) a refuge of the RSPCA or any other body prescribed in regulation 4 of the *Cat Regulations 2012;*

(b) 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) (c) a cat management facility established under clause 4.1;

(b) (d) a veterinary surgery; or

(c) (e) a pet shop.

2.3 Application for permit

An application for a permit under clause 2.2 shall be made in accordance with regulation 8 of the *Cat (Uniform Local Provisions) Regulations 2013* and—

(a) must be accompanied by the application fee for the permit determined by the local government from time to time;

(b) is not deemed to have been made until the application fee has been paid; and

(c) is to be accompanied by the plans to the specification and in the form determined by the local government from time to time.

2.4 Decision on application

The local government may—

(a) approve an application for a permit subject to conditions; or

(b) refuse to approve an application for a permit.

2.5 Factors relevant to determination of application

In determining an application for a permit the local government 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 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 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 proposed use;

(h) the applicant's infringement history with the local government or any other local government, relevant to any cat or person to which a permits relates; and

(i) such other factors which the local government may consider to be relevant in the circumstances of the particular case.

2.6 Conditions

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

(a) the additional conditions contained in Schedule 1 for that particular type of permit;

(b) any cat to which a permit relates must be registered under the Act;

(c) a permit may be suspended or revoked by the local government if there is a breach of any condition of that permit or if the permit holder is convicted of a breach of any provision of this local law;

(d) a permit relates to specific premises and to a specific permit holder, and is not transferable on—

(i) the sale or lease of the premises to which the permit relates; or

(ii) the sale or lease of a cat management facility;

(e) a person shall not contravene a condition of a permit; and

(f) unless otherwise specified on a permit, a permit commences on the date of issue and expires after three years.

2.7 Renewal of permit

(1) A permit is to be renewed if the fee referred to in clause 2.3(a) is paid to the local government prior to the expiry of the permit.

(2) On the renewal of a permit the conditions of the permit at the time of its renewal continue to have effect.

2.8 Variation or cancellation of permit

(1) The local government may vary the conditions of a permit.

(2) The local government may vary or cancel a permit on the request of the permit holder.

(3) If a permit is cancelled the fee paid for that permit is not refundable for the term of the permit that has not yet expired.

PART 3—CONTROL OF CATS

3.1 Nuisances

(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 or until the local government withdraws the notice.
(4) A person given a notice to abate the nuisance shall comply with the notice within the period specified in the notice.

PART 4—IMPOUNDING OF CATS

4.1 Cat management facility

(1) The local government may establish and maintain a cat management facility or facilities, and may approve a cat management facility maintained by any authorised person, for the impounding of 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;

(b) times for the sale of cats from the facility; and

(c) a scale of impounding fees to be paid on the release of impounded cats.

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 and time 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 under clause 5.1(2) for impounding;the reason for the impounding;

(f) a note of any order made by an authorised person relating to the cat; and

(g) 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 Release from cat management facility

(1) A person shall not—

(a) unless the person is an owner of a cat management facility or an employee of the local government duly authorised in that regard, release or attempt to release a cat from a cat management facility;

(b) destroy, break into, damage or in any other way interfere with or render not cat proof a cat management facility; or

(c) destroy, break into, damage, or in any other way interfere with any container used for the purpose of catching, holding or conveying cats, which have been seized.

(2) Where—

(a) an owner wishes to collect a cat within 7 days of a notice having been given under section 32 of the Act; and

(b) a permit is required for the keeping of the cat,

the cat shall not be released until the owner obtains a permit.

(3) Dealing with identified and unclaimed cats is dealt with in section 34 of the Act.

PART 5—DESTRUCTION OF CATS

5.1 Destruction at request of owner

(1) An owner of a cat may request the local government to destroy the cat under S.34(c) of the Act.
(2) Where an owner requests that a cat be destroyed, the owner must complete and sign a form of authorisation showing—

(a) the name and residential address of the owner making the request;

(b) a description of the cat including its breed, colour, sex and age;

(c) the reason for destruction;

(d) a signature authorising destruction; and

(e) produce reasonable evidence to the satisfaction of the local government that the person making the request is the owner of the cat.

(3) The local government may charge an owner a fee in respect of the destruction of a cat under clause 5.1(1) and the local government from time to time shall determine the fee.

PART 6 —MISCELLANEOUS

6.1 Serving of infringement notices

An infringement notice served under section 62 of the Act or 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 her or his address.

6.2 Objections and Appeals

When the local government makes a decision to—

(a) approve or refuse to approve an application for a permit under this local law; or

(b) renew, vary or cancel a permit under this local law, the provisions of Division 5 of Part 4 of the Act apply to that decision.

6.3 General offence and penalty provisions

(1) Any person failing to do any act required to be done, or doing any act forbidden to be done by any provision under this local law, or any notice or order given or made under any provision of this local law commits an offence.

(2) An offence against any provision of this local law is a prescribed offence for the purposes of Section 84 of the Act.

(3) The maximum penalty for an offence under this local law is $2,500.

(4) The amount appearing in the final column of Schedule 2 directly opposite an offence described in that Schedule, is the modified penalty for that offence.

(5) Where an authorised person has reason to believe that a person has committed an offence under this local law in respect of which a modified penalty may be imposed, he or she may issue to that person a notice in the form of Form 6 of Schedule 1 of the Cat *Regulations 2012.*

(6) Whether or not the modified penalty has been paid, an authorised person may withdraw an infringement notice by sending a notice in the form of Form 7 of Schedule 1 of the Cat *Regulations 2012* to the person named in the infringement notice.

(7) A penalty for an offence against this local law may be recovered by the local government taking proceedings against the alleged offender in a Magistrate's Court.

(8) The local government shall cause to be kept adequate records of all infringement notices given, and all modified penalties paid under this local law.

6.4 Defence

(1) It is a defence to a charge of an offence of contravening clause 3.1(1), if the owner charged satisfies the court that at the material time some other person (whom he or she shall identify) over the age of 18 years was the owner of the cat(s).

SCHEDULE 1

ADDITIONAL CONDITIONS APPLICABLE TO PARTICULAR PERMITS

[Clause 2.6]

A Permit to keep three or more cats

Additional Conditions

(1) The owner will have during the term of the permit adequate space for the exercise of the cats.

(2) In the case of a multiple dwelling, where there is no suitable dividing fence, the written consent to the application for a permit of the occupier of the adjoining multiple dwellings has been obtained.

(3) 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 cat management facility

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) Washing basins and running hot and cold water are to be available to the satisfaction of the local government.

(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 is to be kept on the premises.

SCHEDULE 2

PRESCRIBED OFFENCES

[Clause 7.3]

Cat Act 2011

Shire of York

CAT LOCAL LAW 2017

Item No.	Clause No.	Nature of Offence	Modified Penalty
1	2.2(1)(a) & (b)	Failure of an owner to hold a permit to keep three or more cats oi to use premises as a cat management facility	$200.00
2	2.6(c)	Breach of a condition of a permit	$200.00
3	3.1(4)	Failure to comply with a notice to abate a nuisance	$200.00

Dated this 9th day of March 2018.

The Common Seal of the Shire of York was affixed by authority of a resolution of the Council in the presence of—

SHIRE OF YORK COMMON SEAL

Date: 9-3-18

Cr DAVID WALLACE, Shire President.

Date: 9/3/18

SUZIE HASLEHURST, Acting Chief Executive Officer.