



AGENDA ATTACHMENTS

Finance, Policy, Operations and Legislation Committee

Wednesday, 13 November 2019, 6.00 pm

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FPOL1911-3 PROPOSED CITY OF FREMANTLE CAT MANAGEMENT LOCAL LAW 2020
ATTACHMENT 1 - PROPOSED CITY OF FREMANTLE CAT MANAGEMENT LOCAL LAW 2020

**CAT ACT 2011
LOCAL GOVERNMENT ACT 1995**

**CITY OF FREMANTLE
CAT MANAGEMENT LOCAL LAW 2019**

Under the powers conferred by the *Cat Act 2011*, the *Local Government Act 1995* and by all other powers enabling it, the Council of the City of Fremantle resolved on [INSERT ADOPTION DATE HERE] to make the following local law.

Part 1 – Preliminary

1.1 Citation

This local law may be cited as the *City of Fremantle Cat Management Local Law 2020*.

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*;

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

authorised person means a person authorised by the local government to perform the functions conferred on an authorised person under this local law;

Cat prohibited area means the land –

- (a) designated as such under clause 2.1; or
- (b) described in Schedule 3;

cat management facility means –

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

cattery means any premises where more than 3 cats are kept, bred, boarded, housed or trained temporarily, whether for profit or otherwise, 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;

City means the City of Fremantle;

district means the district of the local government;

local government means the City of Fremantle;

owner has the meaning given to it in the Act;

permit means a permit issued by the local government under Part 3;

permit holder means a person who holds a valid permit under Part 3;

premises includes the following –

- (a) land (whether or not vacant);
- (b) the whole or part of a building or structure (whether of a permanent or temporary nature); and
- (c) a vehicle;

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 planning scheme of the local government made by it under the *Planning and Development Act 2005* and its antecedents; and

Veterinarian means a registered veterinary surgeon as defined in the *Veterinary Surgeons Act 1960* section 2.

Part 2 – Cat control

2.1 Cat prohibited areas

- (1) A cat shall not be in the places specified in Schedule 3 at any time, whether or not under effective control.
- (2) If a cat is in a Cat Prohibited Area in contravention of subclause (1), then the owner of the cat commits an offence unless the owner of the cat has first obtained written authorisation from the City.

Part 3 – Permits for keeping cats

3.1 Interpretation

In this part, and for the purposes of applying the definition of 'cattery', *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 to –
 - (a) keep more than 3 cats on any premises; or
 - (b) use any premises as a cattery or 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) a cat management facility which has been approved by the local government;
 - (c) a veterinary surgery; or
 - (d) a pet shop.

3.3 Application for permit

- (1) An application for a permit under clause 3.2 shall be –
 - (a) made in writing by an occupier of the premises in relation to those premises;
 - (b) in a form approved by the local government, describing and specifying the number of cats to be kept on the premises;
 - (c) accompanied by a brief reason and justification for the request;
 - (d) accompanied by the plans of the premises to which the application relates in the form determined by the local government from time to time;
 - (e) 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; and
 - (f) accompanied by the application fee for the permit determined by the local government from time to time.

3.4 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 3.3.

3.5 Factors relevant to the determination of application

- (1) In determining an application for a permit the local government may have regard to –
 - (a) the reasons and justification provided for the request;
 - (b) the physical suitability of the premises for the proposed use;
 - (c) the suitability of the zoning of the premises under any Scheme which applies to the premises for the proposed use;
 - (d) the environmental sensitivity and general nature of the location surrounding the premises for the proposed use;
 - (e) the structural suitability of any enclosure in which any cat is to be kept;
 - (f) the likelihood of a cat causing nuisance, inconvenience, or annoyance to the occupiers of adjoining land;
 - (g) the likely effect on the amenity of the surrounding area of the proposed use;
 - (h) the likely effect on the local environment including any pollution or other environmental damage, which may be caused by the use;
 - (i) any submissions received under subclause (2) within the time specified in subclause (2); and
 - (j) 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 nearby landowners; or
 - (b) advise nearby landowners that they may make submissions to the local government on the application for a permit within 14 days of receiving that advice, before determining the application for the permit.
- (3) The local government may specify the extent of consultation with nearby residents, as specified in subclause 3.5(2)(a) and may specify which properties should be consulted.

3.6 Decision on application

- (1) The local government may –
 - (a) approve an application for a permit as it was submitted, in which case it shall approve it subject to the conditions in clause 3.7 and may approve it subject to any other conditions it sees fit;
 - (b) approve an application but specify an alternative number of cats permitted to be housed at the address; or
 - (c) refuse to approve an application for a permit.
- (2) If the local government approves an application under subclause (1), then it shall issue a permit to the applicant in the form determined by the CEO.
- (3) If the local government refuses to approve an application under subclause (1) then it shall advise the applicant accordingly in writing.

3.7 Conditions

- (1) Every permit is issued subject to the following conditions –
 - (a) each cat kept on the premises to which the permit relates shall comply with the requirements of the Act;
 - (b) each cat shall be contained on the premises unless under the effective control of a person;
 - (c) the permit holder will provide adequate space for the exercise of the cats;
 - (d) the premises shall be maintained in good order and in a clean and sanitary condition; and
 - (e) those conditions contained in Schedule 1.
- (2) In addition to the conditions in subclause (1) of this clause, a permit may be issued subject to other conditions, as the local government considers appropriate.

3.8 Compliance with conditions of permit

A permit holder shall comply with each condition of a permit.

3.9 Duration of a permit

- (1) Unless otherwise specified in a condition on a permit, a permit commences on the date of issue and expires –
 - (a) if it is revoked; or
 - (b) if the permit holder ceases to reside at the 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 transferrable either in relation to the permit holder or the premises.

3.12 Permit to be kept at premises and available for view

- (1) A permit issued by the local government shall be kept at the premises to which it applies and shall be provided to an authorised person on demand.
- (2) In the case of a registered cattery or cat management facility, the permit shall be displayed in a prominent place within the premises.

Part 4 – Miscellaneous

4.1 Giving of an infringement notice

- (1) A notice given under this local law may be given to a person –
 - a) personally;
 - b) by postal mail addressed to the person; or
 - c) by leaving it for the person at her or his address.

Part 5 – Objections and appeals

5.1 Objections and appeal rights

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 or appeal against the decision under Division 1 of Part 9 of the *Local Government Act 1995*.

Part 6 – Offences and penalties

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).

6.5 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) Unless otherwise specified, 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 a further penalty not exceeding a fine of \$500 in respect of each day or part of a day during which the offence has continued.

6.6 Prescribed offences

- (1) An offence against a clause specified in Schedule 2 is a prescribed offence for the purposes of section 63 of the Act.

6.7 Forms

- (1) The issue of infringement notices, their withdrawal and the payment of modified penalties are dealt with in Part 4, Division 4 of the Act.
- (2) An infringement notice in respect of an offence against this local law may be given under Section 62 of the Act and is to be in the form of Schedule 1, Form 6 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 Schedule 1, Form 7 of the *Cat Regulations 2012*.

Schedule 1 – Additional conditions applicable to particular permits

[Clause 3.7]

A. Permit to keep more than 3 cats

Additional conditions:

- (1) In the case of a grouped dwelling where there is no suitable dividing fence or multiple dwellings on the same level, the written consent to the application for a permit of the occupier of the adjoining dwellings has been obtained.
- (2) Without the consent of the local government, the permit holder will not substitute or replace any cat that is the subject of a permit once that cat –
 - (a) dies; or
 - (b) is permanently removed from the premises.

B. Permit to use premises as a Cattery or 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 with a minimum of running 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) A register 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) name and residential address of the owner.
- (9) The register 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) Any sick or ailing cat is to be removed from the premises or transferred to an isolation cage separated from other cats kept on the premises.
- (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).

Schedule 2 – Prescribed offences

[Clause 6.6]

Item No.	Clause No.	Nature of Offence	Modified Penalty
1	2.2	Cat in prohibited area	\$200
2	3.2	Failure of a person to hold a permit when required	\$200
3	3.8	Breach of a condition of a permit	\$200

Schedule 3 – Cat prohibited areas

[Clause 2.1]

Places where cats are prohibited:

#	Common Name	Location	Description
1	Booyeembara Park	80 Montreal Street Fremantle	Reconstructed landscape of natural bushland local to the area. Established to create a representative landscape and increase local biodiversity, Managed as a natural bushland area and refuge for native wildlife, includes formal turfed parkland with native vegetation garden beds.
2	Sir Fredrick Samson Park	McCombe Avenue, Samson	Remnant bushland. Bush Forever site.
3	Bathers Beach Reserve	Arthur Head, Fleet St Fremantle	Reconstructed dune vegetation
4	Port Beach reserve	Port Beach Road, North Fremantle	Reconstructed dune vegetation
5	Leighton Beach Reserve	Port Beach Road, North Fremantle	Reconstructed dune vegetation
6	South Beach Reserve	Ocean Drive, South Fremantle	Reconstructed dune vegetation
7	Cantonment Hill	135 Queen Victoria Street, Fremantle	Reconstructed natural landscape. Bush Forever site.
8	Rocky Bay Reserve	Rocky Bay, North Fremantle	Swan River foreshore and part of the Swan and Canning Riverpark.
9	North Fremantle Foreshore Reserve (including Prawn Bay)	Johannah St, North Fremantle	Swan River foreshore and part of the Swan and Canning Riverpark. Migratory birds.