



**KEEPING AND CONTROL
OF CATS LOCAL LAW 2016**

Cat Act 2011
Local Government Act 1995

Shire of Gingin

KEEPING AND CONTROL OF CATS LOCAL LAW 2016

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Cat Act 2011
Local Government Act 1995

KEEPING AND CONTROL OF CATS LOCAL LAW 2016

Under the powers conferred by the *Cat Act 2011* and the *Local Government Act 1995* and by all other powers enabling it, the Council of the Shire of Gingin resolved on 20 September 2016 to make the following local law.

Part 1—Preliminary

1.1 Citation

This local law may be cited as the *Shire of Gingin Keeping and Control of Cats Local Law 2016*.

1.2 Commencement

This local law comes into operation on the 14th day after the date on which it is published in the *Government Gazette*.

1.3 Application

This local law applies throughout the entire 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 appointed by the local government to perform all or any of the functions conferred on an authorised person under this local law;

cat means any member of species *Felis Catus* (domestic cat) or a hybrid of that species;

cat management facility has the meaning given to it in the Act;

cattery means any premises where more than 2 cats over the age of 6 months are kept, boarded, trained or bred 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;

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) securely tethered;
- (c) secured in a cage; or
- (d) any other means of preventing escape;

grouped dwelling (commonly referred to as a duplex, villa or townhouse) 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 Shire of Gingin;

local planning scheme means a local planning scheme of the local government made under the *Planning and Development Act 2005*;

multiple dwelling (often called flats, apartments or units) means 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 grouped 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 tort 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 to 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 valid permit under clause 2.6;

premises includes—

- (a) any land (whether or not vacant) and any improvements used for any purpose;
- (b) any part of any building in separate ownership or separate occupation, or any unit, flat, town house, duplex, apartment, grouped dwelling or multiple dwelling (whether of a permanent or temporary nature), industry or business; and
- (c) a vehicle;

Regulations means the *Cat Regulations 2012*;

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

Schedule means a schedule to this local law; and

Uniform Local Provisions means the *Cat (Uniform Local Provisions) Regulations 2013*.

Part 2—Permits for keeping cats

2.1 Interpretation

In this Part, unless the context otherwise requires, **cat** does not include a cat less than 6 months old.

2.2 Cats for which permit is required

- (1) Subject to subclause (2) a person is required to have a permit —
 - (a) to keep more than 2 cats on any premises in accordance with a valid permit; or
 - (b) to use any premises as a cattery.
- (2) A permit is not required under subclause (1) if the premises concerned are—
 - (a) a refuge of the RSPCA or any other registered animal welfare organisation;
 - (b) a cat management facility which has been approved by the local government; or
 - (c) a veterinary surgery.

2.3 Application for permit

An application for a permit under clause 2.2 shall be—

- (a) made by an occupier of 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 the plans of the 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 premises, where the occupier is not the owner of the premises to which the application relates; and
- (e) accompanied by the application fee for the permit determined by the local government from time to time.

2.4 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 2.3.

2.5 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 premises for the proposed use;
 - (b) the suitability of the zoning of the premises under any local planning scheme which applies to 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 a nuisance, inconvenience or annoyance to the occupiers of adjoining land;
 - (f) the likely effect of the proposed use on the amenity of the surrounding area;
 - (g) the likely effect of the proposed use on the local environment, including the likelihood of any pollution or other environmental damage;
 - (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.

2.6 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 2.7 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.

2.7 Conditions

- (1) Every permit is issued subject to the following conditions—
 - (a) each cat kept on the premises to which the permit relates shall be registered under 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 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.

2.8 Compliance with conditions of permit

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

2.9 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 premises to which the permit relates.

2.10 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.

2.11 Permit not transferable

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

2.12 Permit to be kept at the premises and available for view

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. In the case of a registered cattery, the permit shall be displayed in a prominent place within the premises.

Part 3 — Miscellaneous

3.1 Giving of a notice

A notice given 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 her or his address.

Part 4—Objection and review

4.1 Objection and review 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 to or appeal against the decision under Division 1 of Part 9 of the *Local Government Act 1995*.

Part 5—Offences, defence and penalties

5.1 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 a 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.

5.2 Prescribed offences

An offence against a clause specified in Schedule 2 is a prescribed offence for the purposes of this local law.

5.3 Forms

- (1) The issue of infringement notices, their withdrawal, objections, warrants and payment of modified penalties is dealt with under the *Cat Regulations 2012*.
- (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*.

5.4 Defence

It is a defence to a charge of an offence under 5.1(1) if the person charged satisfies the court —

- (a) in the case of any person, that they took all reasonable precautions and exercised all due diligence to avoid the contravention; or
- (b) in the case of the occupier of premises where the cat is ordinarily kept or ordinarily permitted to live, that —
 - (i) they fulfilled the requirements of subclause (a); or
 - (ii) at the material time the cat was in fact owned by some other person (whom they shall identify) over the age of 18 years; or
- (c) in the case of the owner or the registered owner, that —
 - (i) they fulfilled the requirements of subclause (a); or
 - (ii) at the material time the cat was in the possession or effective control of some other person without his or her consent, express or implied.

**Schedule 1 –
Additional Conditions Applicable to Particular Permits
[Clause 2.7]**

1. Permit to keep 3 or more cats - *Additional conditions*

- (a) The written consent to the application for a permit of the adjoining multiple dwellings has been obtained.
- (b) Without the consent of the local government, the permit holder will not substitute or replace any cat once that cat—
 - (i) dies; or
 - (ii) is permanently removed from the premises.

2. Permit to use premises as a cattery - *Additional conditions*

- (a) All building enclosures must be structurally sound, have impervious flooring and be well lit and ventilated and otherwise comply with all legislative requirements.
- (b) There are to be a feed room, wash area, isolation cages and maternity section.
- (c) Materials used in structures are to be approved by the local government.
- (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) Wash basin with a minimum of cold water to be available.
- (g) The maximum number of cats to be kept on the premises stated on the permit is not to be exceeded.
- (h) An entry book is to be kept 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 the owner;
- (i) The entry book is to be made available for inspection on the request of an authorised person.

- (j) Enclosures are to be thoroughly cleaned each day and disinfected at least once a week to minimise disease.
- (k) No sick or ailing cat to be kept on the premises.
- (l) 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 –
Offences in respect of which a modified penalty applies
[Clause 5.2]**

Item Number	Clause Number	Nature of Offence	Modified Penalty
1.	2.2(1)(a)	Keeping of more than two cats on premises without a permit	\$250
2.	2.2(1)(b)	Use of a premises as a cattery without a permit	\$250
3.	2.8	Failure to comply with a condition of a permit	\$250
4.	2.12	Failure to keep permit at the premises and/or displayed as required	\$250

Dated this 17th day of November 2016

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



Dwight Roe

D W ROE
Shire President

J Edwards

J EDWARDS
Chief Executive Officer