



Government of **Western Australia**
Department of **Local Government and Communities**

Cat Local Law Guideline Notes



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Introduction

Each community has different needs and preferences when it comes to the regulation and control of cats. This guideline has been prepared as an alternative to a Model Cat Local Law, to assist local governments in developing a Cat Local Law that caters for their unique situation. This will allow local governments to address their specific requirements, taking into account their level of resources.

Overview

Section 79 of the *Cat Act 2011* (the Act), provides local governments with the power to make local laws on all matters that are required or permitted to be prescribed by a local law, or are necessary or convenient to be so prescribed, for it to perform any of its functions under the Act.

In particular, without limiting the above, section 79(3) of the Act provides that a Cat Local Law may be made as to one or more of the following —

- (a) the registration of cats;
- (b) removing and impounding cats;
- (c) keeping, transferring and disposing of cats kept at cat management facilities;
- (d) the humane destruction of cats;
- (e) cats creating a nuisance;
- (f) specifying places where cats are prohibited absolutely;
- (g) requiring that in specified areas a portion of the premises on which a cat is kept must be enclosed in a manner capable of confining cats;
- (h) limiting the number of cats that may be kept at premises, or premises of a particular type;
- (i) the establishment, maintenance, licensing, regulation, construction, use, record keeping and inspection of cat management facilities;
- (j) the regulation of approved cat breeders, including record keeping and inspection;
- (k) fees and charges payable in respect of any matter under this Act.

A Cat Local Law does not operate outside the district of the local government for which it is made and is inoperative to the extent it is inconsistent with the Act or any other written law.

It is important to note therefore, that any Cat Local Law currently in existence will also be inoperative to the extent that it is inconsistent with the Act or any other written law.

The need for local law

A local government needs to consider what elements of cat control they wish to regulate and only decide to make a local law if:

- the Act, *Cat Regulations 2012*, the *Cat (Uniform Local Provisions) Regulations 2013* or any other written law do not already cover that matter; and
- there appears a sufficient need for additional regulation in that area.

Through the integrated planning process, the community may advise that there is a need for particular areas of cat control. It is then a matter of deciding that if you need cat control, what exactly you do need.

For some local governments the Act and *Cat Regulations 2012* may provide sufficient powers for the control of cats without the need for a local law. Others may find targeted education campaigns and policies in particular areas may be all that is needed to supplement the legislation.

What does the legislation provide?

Specifically the Act and *Cat Regulations 2012* already provide the following key 'controls' in respect of cats. The following is a brief outline of some sections of the Act dealing with offences and enforcement. You should refer to the relevant section for a full understanding of the provision.

Registration

- S 5 – It is an offence not to register a cat over 6 months unless exempt.
- S 6 – It is an offence for a cat to be in a public place without a registration tag, unless exempt.
- S 7 – It is an offence for a person to remove or interfere with a registration tag worn by a cat.
- S 8 – Outlines the procedure for registering a cat.
- S 9 – Outlines the procedure a local government must follow once they have received an application for the registration of a cat.
- S 10 – Provides for a local government to cancel a registration.

Microchipping

- S 14 – It is an offence not to microchip a cat over 6 months unless exempt.
- S 15 – It is an offence for a microchip implanter to not give notice of the information prescribed to the microchip database company within 7 days of implanting the microchip.
- S 16 – It is an offence for a microchip database company to not keep the information prescribed under section 15.
- S 17 – It is an offence for a person to remove or interfere with a microchip implanted in a cat.

Sterilisation

- S 18 – It is an offence not to sterilise a cat over 6 months, unless exempt.
- S 19 – It is an offence to identify a cat as sterilised that is not.

- S 20 – It is an offence for a veterinarian to not give notice within 7 days of the sterilisation of a cat to the microchip database company.
- S 21 – It is an offence for a veterinarian to not give a certificate of sterilisation to the owner of a cat.

Change of ownership

- S 23 – It is an offence to transfer a cat that is not microchipped or sterilised unless an exemption applies or a sterilisation voucher has been provided.
- S 24 – It is an offence for the seller of a cat to not, within 7 days, give notice to the local government and the microchip database company of the new owner's name and address and any other changes to recorded information.
- S 25 – It is an offence for an owner of a cat to not give notice within 7 days to the local government or the microchip database company of any changes to recorded information.

Management of cats

- S 26 – Provides local governments with the power to issue cat control notices to cat owners.
- S 27 – Provides local governments with the power to seize any cat with the consent of the owner or under a warrant.
- S 30 – It is an offence for the operator of a cat management facility to not make every reasonable attempt to identify the owner of a cat entering the facility.
- S 31 – A cat owner is liable to pay reasonable costs to a cat management facility.
- S 32 – It is an offence for the operator of a cat management facility to not take all reasonable steps to notify a known owner of a cat kept at the facility of the cat's location, that the cat may be rehoused, sold or destroyed, any costs incurred by the owner, and whether the cat is to be microchipped or sterilised.
- S 35 – It is an offence to breed a cat without being an approved cat breeder.
- S 36 – Outlines the procedure for applying for approval to breed cats.
- S 37 – Outlines the procedure a local government must follow once they have received an application for the approval to breed cats.
- S 38 – Provides for a local government to cancel an approval to breed cats.
- S 41 – It is an offence to offer a cat as a prize in a raffle or similar event.

Enforcement

- S 50 – It is an offence for a person who is committing an offence or is reasonably suspected of having committed an offence under the Act to refuse to give their name, address and date of birth to an authorised person.
- S 54 – It is an offence to obstruct or otherwise hinder an authorised person in their duties.
- S 62 – Provides local governments with the power to issue infringement notices.
- S 85 – It is an offence to give false or misleading information to an authorised officer or in relation to an application under the Act.

Schedule 2 of the *Cat Regulations 2012* contains a table listing 14 offences for which infringement notices can be issued and modified penalties imposed.

Current Cat Local Laws

If your local government already has a Cat Local Law in existence, there are some things to consider.

A local law should not reproduce any provision already covered in the Act or *Cat Regulations 2012* either within the content of the local law or within boxed notes.

In its 23rd Report, the Parliament's Joint Standing Committee on Delegated Legislation indicated its concerns in relation to reproducing legislation in boxed notes in local laws.

Repeating the text of sections of other legislation as part of a local law can lead to confusion in cases where the text is later amended in the original legislation. The report can be downloaded from Parliament's website: www.parliament.wa.gov.au

Once gazetted, a local government may choose to include this additional information as part of an administrative version of the local law to assist the public. The administrative version would be available from the local government but would not be the official gazetted version of the local law.

If your local government already has a Cat Local Law in effect, this law should be reviewed and if necessary amended to ensure there are no inconsistencies between it, the Act, the *Cat Regulations 2012* and the *Cat (Uniform Local Provisions) Regulations 2013*. If the local law includes any duplication in provisions already contained in the Act or any other written law or includes any boxed explanatory notes these should be removed via an amendment to the local law.

In order to amend your Cat Local Law you need to follow the process outlined in section 3.12 of the *Local Government Act 1995*.

Developing a new Cat Local Law

If it has been determined that there is a need for a Cat Local Law in your local government district, the following issues should be considered:

A Cat Local Law must be made in accordance with section 3.12 of the *Local Government Act 1995*

While section 79 of the Cat Act provides local governments with the power to make a local law in respect of cats, it is important to note that in making such a local law, local governments must follow the steps outlined in section 3.12 of the *Local Government Act 1995*. Any future amendments to existing or new Cat Local Laws will also need to be done in accordance with the process outlined in this section.

For further information about making a local law under section 3.12 of the *Local Government Act 1995*, please see the Department's Operational Guidelines Number 16 "Local Laws" available on the Department of Local Government and Communities website: www.dlqc.wa.gov.au

Formatting of Cat Local Laws

To help local governments draft local laws and ensure consistency and high quality in local laws throughout the State, it is recommended that local government legislation conform to Parliamentary Counsel's office drafting standards for State legislation. This is also consistent with the approach taken in other jurisdictions.

Queensland's document "Guidelines for drafting of local laws" (1 July 2010) is a good starting point:

www.legislation.qld.gov.au/Leg_Info/publications/Guidelines_Local_Laws.pdf

The Western Australian publication from the Parliamentary Counsel's Office "How to Read Legislation - for Beginners" also contains useful information about using plain English and structuring sections and defined terms:

www.department.dotag.wa.gov.au/files/How_to_read_legislation.pdf

A local law should not reproduce any provision already covered in the Act, *Cat Regulations 2012* or the *Cat (Uniform Local Provisions) Regulations 2013* either within the content of the local law or within boxed notes

When creating a new local law it is important to ensure that the law does not unnecessarily duplicate provisions or requirements already covered in the principal Act or Regulations. Further information on the reasoning for this is covered under the section “Current Cat Local Laws” in this guideline.

The layout of Cat Local Laws and specific matters that Cat Local Laws may include

Below is a suggested example of how a local law could be divided into different Parts and the issues local governments could consider within each Part.

Part 1 - Preliminary matters

This Part usually sets out:

1.1 Citation clause

What is the title of your local law?

For example: This local law may be cited as the *Shire ofCat Local Law 2014*.

1.2 Commencement

The local law may come into effect on the day after gazettal or at some other time after this.

For example: This local law comes into operation 14 days after the date of its publication in the *Government Gazette*.

1.3 Repeal clause

Is the new local law replacing an older local law? If so, the local law being replaced should be repealed in this clause. If there is no previous local law being replaced then this clause is not required.

For example: The *Shire of ...Cat Local Law 2013* published in the *Government Gazette* on [insert date] is repealed.

1.4 Definitions clause (this clause could also be titled 'Terms used')

What terms used within your local law need to be defined?

Note: If a term is already defined in the Act or the *Cat Regulations 2012*, it is not necessary to define the term here.

For example: In this local law unless the context otherwise requires –

Act means the *Cat Act 2011*

CEO means the Chief Executive Officer of [insert local government]

Council means the Council of the [insert local government]

Local Government means the [insert local government]

1.5 Application clause

Where do you want your local law to apply? In most cases this will be simply within the relevant local government district.

For example: This local law applies throughout the district.

Part 2 - Keeping of cats

Under this Part, you can include the specific local laws required in your local government area. This can include one or more of the local laws as provided for under section 79(3) of the Act or other matters necessary to perform functions under the Act (section 79(1)).

2.1 The registration of cats

The Act is comprehensive in its provisions for cat registration. There may not be any local laws you need to make, but if so, the Act provides for a registration of cat local law to be made.

2.2 Removing and impounding cats

- Will there be any fees imposed on the owner if an owned cat is removed and/or impounded?
- Is a register required to be kept? If so, detail the information that should be kept.
- Consider if the public is able to access the Register.
- If you have procedures for the seizing of cats, they could be referred to here.

2.3 Keeping, transferring and disposing of cats kept at a Cat Management Facility (CMF)

- The Act requires that a CMF operator can do all things necessary to ensure that a cat is sterilised and microchipped prior to being released from impoundment. Are there any other areas that you wish to regulate?
- Minimum standards for the keeping of cats at a CMF can be included here, if necessary (storage of food, general requirements about noise and disturbance, cleaning etc.).
- Any general conditions about transferring or rehoming cats could be included here (this could include that a register recording details about the transfer or rehoming of cats is kept).

For example:

The CMF operator is not to release a cat seized and impounded to any person unless that person has produced, to the satisfaction of the operator, the following evidence:

- (a) ownership of the cat or, of her or his authority to take delivery of it; or
- (b) that he or she is the person identified as the owner on the microchip implanted in the cat.

2.4 The humane destruction of cats

- Are there any processes to be followed before the destruction of a cat, e.g. authorisation forms etc.?
- Are there guidelines to be followed for the humane destruction of cats?

- If it is likely the local government will use a local veterinary services exclusively for the humane destruction of cats, this may be reflected in the local law.

2.5 Cats creating a nuisance

- Do provisions about nuisance behaviour of cats need to be included?
- Are they the types of nuisance that should be addressed in a local law?
- Local law provisions should include a definition of 'nuisance' and procedures for dealing with cat related nuisance.

For example:

The owner or occupier of premises on which a cat is ordinarily kept shall prevent the cat from creating a nuisance on other premises, to another person or exposing another person to health and/or safety risks by:

- (a) the noise or odour generated by the presence of the cat/s;
- (b) the aggressive nature of the cat/s or
- (c) a cat that wanders outside the premises where it is ordinarily kept.

2.6 Specifying places where cats are prohibited absolutely.

- Are there any areas within your district where you consider cats should be prohibited absolutely? For example, this could include areas adjacent to nature reserves to protect wildlife.
- For easier understanding, you may wish to include a schedule to your local law. This can be in the form of a map of the district highlighting the area/s where cats are prohibited. Alternatively you can specify (and name) particular areas, such as reserves, foreshores, regional parks etc. You would need to refer to the schedule under this Part.
- What is the procedure for cats found in prohibited areas? Note, cats cannot be prohibited from the entire district and there should be protections for cats currently owned (and registered) to people who live in designated areas.

2.7 Cats to be confined

(Requiring that in specified areas, a portion of the premises on which a cat is kept must be enclosed in a manner capable of confining cats)

- The Act does not provide for the confinement of cats, however you may decide that there is a need to require cats to be confined to the owner's premises.
- If this is the case, consideration should be given to specifying:
 - Whether a portion of land on the premises must be enclosed in a manner capable of confining a cat.
 - The physical requirements of the premises where a cat must be confined.
 - Whether cats should be subject to a curfew, i.e. after dark.

2.8 Limiting the number of cats that may be kept at premises, or premises of a particular type

- The Act does not provide limits on the number of cats that can be kept on premises.
- Limits for the keeping of cats may therefore be determined by the local government and will need to be a compromise between what is seen to be acceptable to the public to prevent nuisance whilst still being feasible for cat fanciers and breeders. The local government should also consider what would be achieved by limiting cat numbers.
- If a local government wishes to limit the number of cats that can be kept on premises; the following issues should be considered:
 - What will be the maximum number of cats that can be kept on premises?
 - Will any exceptions apply to this limitation?
 - Will there be different limits for within or outside a town site?

Note: You should also refer to the *Cat (Uniform Local Provisions) Regulations 2013* regarding cat numbers and protections of existing cats.

For example:

The limit on the number of cats which may be kept on any premises is:

- (a) three cats over the age of six months and the young of those cats under that age if the premise is situated in a townsite; or

- (b) four cats over the age of six months and the young of those cats if the premise is situated outside a townsite.

2.9 Cat Management Facilities

(The establishment, maintenance, licensing, regulation, construction, use, record keeping and inspection of cat management facilities (CMFs)).

In considering local laws for CMFs you may wish to consider:

Establishment, maintenance and use of CMFs

- Are there any conditions about the establishment, maintenance, use etc of CMFs that should be included?
- Consider the manner in which an enclosure is constructed and the area of land required.
- If you have any guidelines or codes of practice with regards the conditions and use of a CMF, you may require written acknowledgement that the applicant agrees to comply with them.
- You may wish to regulate the hours that a CMF can open for the reception and release of cats.
- You may want to specify the hours the operator should be in attendance at a CMF.

Record keeping

- You may require that a CMF operator:
 - (a) Keeps a register of all cats entering and leaving the facility;
 - (b) Keeps the register at a certain place (for example; the local government office). This may only be necessary if the CMF does not have a public office where the register can be viewed.

Inspection

- Will CMFs be subject to inspections? This will generally apply to facilities which are not operated by the local government.

For example:

With the consent of the operator, a local government can enter a CMF for inspection at any time.

2.10 The regulation of approved cat breeders, including record keeping and inspection

- Local governments can introduce conditions in a local law for cat breeders.
- This can include record keeping and inspection.
- Consider what type of records cat breeders need to keep and how often premises are inspected.

For example:

- (a) Breeders are to keep records of purchases/transfer of kittens for two years (including buyer's name, address, cat's microchip number); and
- (a) premises may be inspected every six months.

2.11 Fees and charges payable in respect of any matter under this Act

Fees and charges payable in respect of any matter under the Cat Act could be included here

- You can consider fees and charges (if any) that will you charge for:
 - (a) Removing and impounding the cat;
 - (b) Keeping and caring for the cat;
 - (c) Implanting a microchip;
 - (d) Sterilising the cat;
 - (e) The destruction and disposal of the cat.

Part 3 - Enforcement

Refer to section 84 of the Act – Creating offences and prescribing penalties.

3.1 Penalties

- Will the local law include any additional infringement notices or modified penalties?

- Include standard enforcement provisions, if required.

3.2 Objections

Local governments could consider the following:

- Will there be a form that may be used when lodging an objection to an infringement notice or penalty?
- If so, a time period for lodging the objection should be specified in the form.
- How will the objection be dealt with?
- How will the person lodging the objection be notified of the decision?

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Cat Local Law Guideline Notes are available for viewing and download from the Department of Local Government and Communities website: www.dlgc.wa.gov.au

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