

CAT ACT 2011

LOCAL GOVERNMENT ACT 1995

Shire of Pingelly

CATS LOCAL LAW 2023

Under the powers conferred by the *Cat Act 2011*, the *Local Government Act 1995* and all other powers enabling it, the Council of the Shire of Pingelly hereby records having resolved on **Date Month 2023** to adopt the following local law.

PART 1 - PRELIMINARY

1.1 Citation:

This local law may be cited as the *Shire of Pingelly Cats Local Law 2023*.

1.2 Commencement

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

1.3 Application

This local law applies throughout the district.

1.4 Interpretation

(1) In this local law unless the context otherwise requires -

Act means the *Cat Act 2011*;

application means an application for a permit;

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, under section 9.10 of the *Local Government Act 1995* to perform the functions conferred on an authorised person under this local law;

bushland means uncultivated land that is covered with trees, shrubs, or other natural vegetation whether native or not;

cat has the meaning given to it in the Act;

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

cat prohibited area means an area as outlined in Schedule 3;

CEO means the Chief Executive Officer of the local government;

district means the district of the local government;

local government means the Shire of Pingelly;

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 other property on the land affected by the interference;

occupier has the meaning given to it in the *Local Government Act 1995*;

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 has the meaning given to it in the Act;

prescribed premises has the meaning given to it in the *Cat (Uniform Local Provisions) Regulations 2013*;

public place has the meaning given to it in the Act and includes any place to which the public lawfully has access; and

standard number of cats has the meaning given to it in the *Cat (Uniform Local Provisions) Regulations 2013*.

- (2) A term that is used in this local law and is not defined in subclause (1) has the same meaning given to it in the Act or, if not defined in the Act, the same meaning given to it in the *Cat Regulations 2012*, the *Cat (Uniform Local Provisions) Regulations 2013* or the *Local Government Act 1995*.

PART 2 - CONTROL OF CATS

2.1 Cat not to be a nuisance

- (1) An owner shall not allow a cat to be or create a nuisance.
- (2) Where the local government receives a complaint from a person that is in accordance with the notice of complaint form as contained in Schedule 1 of this local law, and where in the opinion of an authorised person, that a cat is creating a nuisance, the local government may give a cat control notice to the owner 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 which shall not exceed 28 days.
- (4) A person given a notice to abate the nuisance shall comply with the notice within the period specified in the notice.
- (5) A cat control notice under subclause 2.1(2) shall be in the form of Schedule 1, Form 3 of the *Cat Regulations 2012*.

2.2 Cats in Prohibited Areas

- (1) A cat shall not be:
 - (a) In a public place unless the cat is under effective control; or
 - (b) In an area defined as bushland, regardless of land ownership or management, greater than 5,000m².
- (2) If a cat is at any time in a place in contravention of subclause 2.2(1) -
 - (a) the owner of the cat commits an offence; and
 - (b) an authorised person may seize and impound the cat in accordance with the Act.

2.3 Interference with Cat Traps

- (1) It is an offence if a person, other than the landowner, land manager, Shire of Pingelly, or their delegates, releases a cat from a lawfully placed cat trap.
- (2) It is an offence if a person, other than the landowner, land manager, Shire of Pingelly, or their delegates, removes or causes willful damage to a lawfully placed cat trap.

PART 3 - NUMBER OF CATS THAT MAY BE KEPT

3.1 Interpretation

For the purposes of applying this Part, a cat does not include a cat less than 6 months old.

3.2 Prescribed premises

- (1) This local law limits the number of cats that may be kept at prescribed premises within the district except -
 - (a) a cat management facility operated by a body prescribed as a cat management facility operator under the *Cat Regulations 2012*; or
 - (b) a cat management facility operated by the local government; or
 - (c) a veterinary practice business or veterinary premises as defined under section 2 of the *Veterinary Practice Act 2021*.

3.3 Standard number of cats

- (1) For the purposes of the definition of *standard number of cats* in regulation 4(1) of the *Cat (Uniform Local Provisions) Regulations 2013*, no more than two (2) cats may be kept on prescribed premises.
- (2) A person who keeps more than the standard number of cats on a prescribed premises without approval commits an offence.

3.4 Application for additional cats

- (1) Approval may be given for up to two (2) additional cats, where the total cats kept on the prescribed premises will not exceed four (4) cats.

- (2) An application for a permit to keep additional cats at a prescribed premises 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; and
 - (c) 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.

3.5 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 3.4.

3.6 Factors relevant to the determination of application

- (2) In determining an application for a permit the local government may have regard to-
- (a) the physical suitability of the premises;
 - (b) the environmental sensitivity and general nature of the location surrounding the premises;
 - (c) the likelihood of a cat causing nuisance, inconvenience, or annoyance to the occupiers of adjoining land;
 - (d) any submissions received under subclause (2) within the time specified in subclause (2); and
 - (e) such other factors which the local government may consider to be relevant in the circumstances of the particular case.
- (3) The local government may require an applicant to -
- (a) consult with nearby residents; or
 - (b) advise nearby residents 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 a permit.
- (4) The local government may specify the extent of consultation with nearby residents, as specified in subclause 3.6(2)(a) and may specify which properties should be consulted.

3.7 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
 - (b) 3.8 and may approve it subject to any other conditions it sees fit;
 - (c) approve an application but specify an alternative number of cats permitted to be housed at the premise; or
 - (d) 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.

3.8 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, the *Cat Regulations 2012* and the *Cat (Uniform Local Provisions) Regulations 2013*; and
 - (b) 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 -
 - (i) dies; or
 - (ii) is permanently removed from the premises.
- (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.

3.9 Compliance with conditions of permit

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

3.10 Duration of a permit

Unless otherwise specified in a condition on a permit, a permit commences on the date of issue and expires -

- (a) the cat is deceased;
- (b) if it is revoked; or
- (c) if the permit holder ceases to reside at the premises to which the permit relates.

3.11 Revocation

The local government may revoke a permit if –

- (a) the permit holder fails to observe any provision of this local law or a condition of a permit;
- (b) if circumstances no longer require more than 2 cats on the premises;
- (c) a cat causes nuisance, inconvenience, or annoyance to the occupiers of adjoining land; or
- (d) at the discretion of the local government.

3.12 Permit not transferable

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

3.13 Permit to be kept at 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.

PART 4 - MISCELLANEOUS

4.1 Giving of a Notice

- (1) A notice served 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 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) A person who contravenes or fails to comply with any provision of this local law is, upon conviction, liable 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.

6.2 Prescribed offences

- (1) An offence against any provision of this local law is a prescribed offence for the purpose of section 62(1) of the Act.
- (2) 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.

6.3 Forms

- (1) The issue of infringement notices, their withdrawal and the payment of modified penalties are dealt with in Division 4 of Part 4 of the Act.
- (2) An infringement notice in respect to 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 - Forms
[Cl. 2.1(2)]

Form 1 - Nuisance Complaint Form

TAKE NOTICE THAT a cat, believed to be a (1) _____
has created a nuisance by (2) _____
the cat is believed to belong to (3) _____
and is kept at (4) _____
and I (5) _____
of

requests the local government to institute proceedings, if the nuisance does not stop,
and undertake:

- (a) to give full information to the local government as to this matter; and
- (b) to appear in Court and give evidence as a witness to the truth of this complaint.

DATED this _____ day of _____ 20

(to be signed by complainant)

- (1) Insert breed or kind of cat and, where possible, its sex and identifying marks.
- (2) Describe details of the alleged nuisance, including the kind of nuisance and, where possible, the dates and time on or between which the nuisance occurred, and where the cat was at the time of the nuisance.
- (3) State name and address of the person believed to be the owner.
- (4) State, if known, where the cat is usually kept.
- (5) Insert name and address of complainant.

Schedule 2

[Cl. 6.2(2)]

Prescribed Offences and Modified Penalties

Offence	Description	Modified Penalty
2.1(1)	Cat causing a nuisance	\$250
2.1(4)	Failure to comply with a cat control notice	\$250
2.2(1)	Cat in a prohibited area	\$250
2.3(1)	Release of a cat from a lawfully placed cat trap	\$250
2.3(2)	Removal or damage to a lawfully placed cat trap	\$500
3.3(1)	Keeping more than the standard number of cats without a permit	\$250
3.9	Failure to comply with a condition of a permit	\$250

Dated this xx Day of xxxx 2023

The Common Seal of the Shire of Pingelly was hereunto affixed to this document by resolution of Council in the presence of:

**William Mulroney ESM
Shire President**

**Andrew Dover
Chief Executive Officer**