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DOG ACT 1976 - SECT 3

Interpretation

3 . Interpretation

(1) In this Act, unless the context otherwise requires —

“attack”, in relation to the behaviour of a dog, does not include behaviour which was an immediate response to, and was induced by, provocation, but includes —

- (a) aggressively rushing at or harassing any person or animal; or
- (b) biting, or otherwise causing physical injury to, a person or an animal; or
- (c) tearing clothing on, or otherwise causing damage to the property of, the person attacked; or
- (d) attempting to attack, or behaving in such a manner toward a person as would cause a reasonable person to fear physical injury,

unless the owner establishes that the behaviour was justified by a reasonable cause;

“authorised person” means a person who is appointed by a local government, to exercise powers on behalf of the local government, under section 29(1);

“dangerous dog” means a dog which is the subject of a declaration under section 33E declaring it to be a dangerous dog;

“district” means an area of the State that has been declared to be a district under the *Local Government Act 1995*, and includes for certain purposes provided for in this Act other areas which although not being within the boundaries of a district are regarded for those purposes as being part of the district;

“guide dog” means a dog trained by a guide dog training institution recognized by the Guide Dogs for the Blind Association of Western Australia Incorporated which is used as a guide by a person who is blind or partially blind, and for certain purposes provided for in this Act includes a dog which is in the course of such training;

“metropolitan region” has the meaning assigned to it for the time being by section 6 of the *Metropolitan Region Town Planning Scheme Act 1959*;

“owner” in relation to a dog means —

- (a) the person by whom the dog is ordinarily kept; or

(b) a person who is deemed by subsection (2) to be the owner of the dog;

“person liable for the control of the dog” means each of the following —

(a) the registered owner of the dog;

(b) the owner of the dog;

(c) the occupier of any premises where the dog is ordinarily kept or ordinarily permitted to live; or

(d) a person who has the dog in his possession or under his control,

but does not include —

(e) a registered veterinary surgeon, or a person acting on his behalf, in the course of his professional practice; or

(f) a police officer or other person acting under a statutory duty or in the administration of this Act;

“premises” shall, for the purpose of determining who is the occupier, be taken to refer to any land or building, or part of any land or building, that is or is intended to be occupied as a separate residence from any adjacent tenement;

“provocation”, in relation to the behaviour of a dog, includes —

(a) on the part of a person, other than a person liable for the control of the dog —

(i) any teasing, tormenting, or abuse of the dog; or

(ii) any assault on, or act of cruelty towards, the dog; or

(iii) entry without lawful excuse on any land or premises of which the owner of the dog is an occupier or on which the dog is ordinarily kept; or

(iv) any intrusion into or upon any vehicle in which the dog is present; or

(v) any threat to, or attack upon, another person or animal towards whom the dog could reasonably be expected to be protective;

or

(b) on the part of another animal —

(i) an attack on the dog made by any other animal; or

(ii) the entry of that other animal on any land or premises of which the owner of the dog is an occupier or on which the dog is ordinarily kept; or

(iii) any threat to, or attack upon, another person or animal towards whom the dog could reasonably be expected to be protective,

but does not include an intentional provocation of the dog by a person liable for the control of the dog;

“public place” means any place to which the public has access;

“registered owner” means the person in whose name the dog is registered under this Act;

“registered veterinary surgeon” means a veterinary surgeon registered under the *Veterinary Surgeons Act 1960* ;

“registration officer” means a person authorised by the local government to effect the registration of dogs pursuant to this Act;

“sterilized” means rendered sterile —

(a) in the case of a female dog, by ovariectomy or ovariohysterectomy; and

(b) in the case of a male dog, by castration;

“townsite” means —

(a) land constituted, defined, or reserved as the site of a town or village under the *Land Administration Act 1997* ;

(b) land subdivided or laid out as the site for a townsite, township, or village, in accordance with the subdivisional plan, lodged with the Department within the meaning of the *Transfer of Land Act 1893* or the Department within the meaning of the *Land Act 1933* ² ; and

[(c) deleted]

(d) land within a town or city under the *Local Government Act 1995* that is outside the metropolitan region.

(2) A person who is shown in the register maintained by a local government under this Act as being the last person recorded by the local government as the registered owner of a dog is deemed to be the owner of that dog, whether or not the registration in his name continues in force, unless he proves that he is not the owner of the dog.

[Section 3 amended by No. 23 of 1987 s. 4; No. 14 of 1996 s. 4; No. 24 of 1996 s. 4; No. 81 of 1996 s. 153(1); No. 31 of 1997 s. 141; No. 10 of 1998 s. 29(1).]

[4. Repealed by No. 23 of 1987 s. 5.]

[5. Omitted under the Reprints Act 1984 s. 7(4)(f) and (g).]

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[Notify me when this title changes.](#)[Full Act - PDF](#)[Copyright](#)**7. Dogs to be registered**

(1) Subject to subsections (1a) and (3), if a dog is not registered under this Act, the owner of the dog and the occupier of the premises where the dog is ordinarily kept or ordinarily permitted to live each commits an offence.

Penalty: Where the dog is a dangerous dog, \$1 000; otherwise, \$500.

(1a) It is a defence for an occupier referred to in subsection (1) against whom proceedings are brought for a contravention of that subsection to prove that a person over the age of 18 (whom he shall identify) was the owner of the dog at the time of the contravention.

(2) Where a person is convicted of an offence against subsection (1) the court shall, in addition to any penalty it may impose, order payment by that person of the registration fee which should have been paid and the amount of that fee shall be recoverable in the like manner as that in which the penalty for the offence may be recovered.

(3) The provisions of this section do not apply to —

(a) a dog under the age of 3 months;

(aa) a dog kept during any period allowed for the making of an application under section 17 or until an application under that section is determined, discontinued, or dismissed for want of prosecution, or during any period when an order is suspended under section 17(3a);

(b) a dog held in the custody of —

(i) the Royal Society for the Prevention of Cruelty to Animals (Inc.) of Western Australia;

(ii) the Dogs Refuge Home (W.A.) Inc.; or

(iii) any other prescribed body,

in a place maintained for the purpose of finding dogs suitable homes;

(c) a dog held in the custody of —

(i) a registered veterinary surgeon, or a person acting on his behalf, in the course of his professional practice; or

(ii) a member of the Police Force or other person acting in pursuance of a statutory duty or in the administration of this Act;

(d) a pack of not less than 10 foxhounds *bona fide* kept together in kennel exclusively for the purpose of hunting, and registered as a pack in lieu of the separate registration of each hound; or

(e) a dog kept in an approved kennel establishment licensed under section 27, where the person by whom that licence is held has paid the prescribed concessional fee applicable to the registration of dogs in that establishment in lieu of a separate registration fee in respect of each such dog.

[Section 7 amended by No. 57 of 1977 s. 2; No. 23 of 1987 s. 7; No. 24 of 1996 s. 16; No. 55 of 2004 s. 252 and 268.]

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Part III - Registration

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(1) A local government shall maintain a register showing, in relation to the district of the local government and any other area for which under the provisions of this Act the local government is the registration authority, —

- (a) the particulars of each dog which is the subject of an application for registration;
 - (b) the particulars of the person by or on behalf of whom an application for the registration of a dog is made as the owner of the dog, and the premises stated as the place at which the dog is intended to be ordinarily kept;
 - (c) any notification of an alleged change of ownership;
 - (d) the period of any registration effected, the registration number given, and the particulars of the registration tag relevant to each dog;
 - (e) particulars of any conviction recorded, or offence in respect of which a modified penalty is paid, under this Act relevant to any dog or person to which an application or registration relates;
 - (f) the number of dogs currently registered in the name of each person;
 - (g) particulars of the cancellation of any registration pursuant to this Act.
- (2) In compiling or maintaining the register the registration officer shall give effect to any direction given to him by the local government.
- (3) The register shall be kept at the public office of the local government and shall, as far as is practicable, be so maintained as to include any alteration or addition since the preparation of the register for the preceding year.
- (4) A person who applies to the local government is, on payment of the prescribed fee, entitled to inspect and take copies of any entry in the register or, as the case may be, to receive a copy of an entry in the register certified by a registration officer.

[Section 14 amended by No. 23 of 1987 s. 12 and 44; No. 14 of 1996 s. 4; No. 55 of 2004 s. 253.]

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15. Registration periods and fees

(1) Subject to the provisions of this section, the registration fee payable in relation to a dog shall be such amount as is prescribed by regulation.

(2) The registration of a dog under this Act —

(a) shall, unless sooner cancelled, remain in force from the date specified in the certificate until 31 October either —

(i) next ensuing; or

(ii) where the regulations permit an extended registration period and the owner has elected to register the dog for that extended period, ensuing in the last registration year of that period;

and

(b) may be renewed to take effect as from 1 November in any year, within the preceding period of 21 days.

(3) Regulations may provide that concessional rates of registration fee shall be payable —

(a) by persons of a specified class or in specified circumstances;

(b) by persons who elect to effect registration for such extended period as is prescribed;

(c) in respect of registration for a period of less than one year;

(d) in respect of a dog that is proved, in such manner as is prescribed, to have been sterilized; and

(e) in respect of dogs to which the provisions of section 7(3)(e) apply, or which are otherwise kept in prescribed circumstances.

(4) No registration fee shall be payable in relation to a guide dog, or any dog that is kept for the purposes of the Crown.

(5) The registration fee payable in relation to a dog that is *bona fide* used in the droving or tending of stock shall be one quarter of the fee that would otherwise be payable.

(6) In respect of every first registration made after 31 May, in any year, only one half of the registration fee shall be payable.

[Section 15 amended by No. 57 of 1977 s. 3; No. 23 of 1987 s. 13.]

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[Notify me when this title changes.](#)[Full Act - PDF](#)[Copyright](#)**16. Registration procedure**

(1) A dog may be registered by the local government of the district in which —

(a) the dog is ordinarily kept; or

(b) the dog is deemed to be ordinarily kept pursuant to section 9 or section 10(2),

if the owner of the dog or some person on his behalf delivers an application in the prescribed form, signed by or on behalf of the owner and accompanied by the prescribed fee, to the office of the local government or some other place within the district appointed by the local government for the purpose.

(1a) The form of application prescribed for the purposes of subsection (1) shall require the applicant —

(a) to state in the application the premises at which the dog will ordinarily be kept; and

(b) to certify that the means exist on the premises for effectively confining the dog within the premises.

(1b) Where a dog is ordinarily kept by a person under the age of 18 years, application for registration of that dog shall be made by his parent or guardian or some other person who is over the age of 18 years and any registration shall be in the name of the applicant.

(2) The registration officer on receipt of an application duly made under subsection (1) shall —

(a) effect the registration in accordance with this Act; or

(b) where the local government so directs, refuse the application and refund the fee,

and in either event shall as soon as is practicable thereafter enter the prescribed particulars in the record maintained by the local government pursuant to section 14.

(3) The local government may direct the registration officer to refuse to effect or renew the registration of a dog, and may direct that the registration of a dog shall be cancelled, if —

- (a) the applicant, the owner, or the registered owner, as the case may be, has been convicted, or has paid a modified penalty, in respect of an offence under this Act on 2 or more occasions during the preceding 12 months; or
- (b) the dog in question has been shown to the satisfaction of the local government to be destructive, unduly mischievous, or to be suffering from a contagious or infectious disease; or
- (c) the local government is not satisfied that there are on the premises at which the dog will ordinarily be kept, or the premises shown in the register, as the case may be, means for effectively confining the dog within the premises; or
- (d) the dog is a dangerous dog; or
- (e) the local government is not satisfied that the terms and conditions of an order as to control requirements in respect of a dangerous dog are being complied with at those premises.

(3a) In respect of a dog that is registered at the commencement of the *Dog Amendment Act 1987*¹ the following provisions apply —

- (a) the local government may by writing served on the registered owner require him, within a specified period, to certify in writing to the local government that the means exist on the premises recorded in the register as those at which the dog is ordinarily kept for effectively confining the dog within the premises;
- (b) if the registered owner does not comply with a requirement under paragraph (a) within the specified period, or if the local government is not satisfied as mentioned in subsection (3)(c) the local government may give a direction to the registration officer under that subsection.

(3b) References in subsections (1a), (3) and (3a) to “means for effectively confining the dog within the premises” do not include the means whereby a dog may be tethered within the premises.

(3c) The registration officer may cancel the registration of a dog if it is proved to his satisfaction that the dog has died or has been removed from the State.

(4) Where the registration of a dog is refused, not renewed or cancelled pursuant to subsection (3) the local government shall forthwith notify the applicant or the person in whose name the registration was effected, and that notification shall be accompanied by a statement in writing of the grounds upon which the decision of the local government was made.

(5) The registration of a dog under this Act has effect throughout the State notwithstanding that the dog may be removed to another district of the State.

(6) On effecting or renewing any registration, the registration officer shall deliver

to the applicant —

(a) a certificate in the prescribed form acknowledging the fee paid and specifying the registration number allocated to each dog, the term of the relevant registration period, and a description of each dog so registered; and

(b) in respect of each dog so registered, a registration tag of the prescribed kind.

[Section 16 amended by No. 23 of 1987 s. 14 and 44; No. 14 of 1996 s. 4; No. 24 of 1996 s. 6; No. 10 of 1998 s. 29(1).]

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(1) Where the ownership of a dog is transferred to another person, the registered owner shall within 28 days thereafter cause the local government in whose register his name appears to be notified in the prescribed manner and form of the name and residential address of the new owner.

Penalty: Where the dog is a dangerous dog, \$400; otherwise, \$200.

(2) No change shall be made in the record of the ownership of a dog unless —

(a) the registered owner has notified the change to the local government under subsection (1); or

(b) an application for registration is made by a person who alleges that he is the new owner.

(3) A person aggrieved by a decision of the local government relating to the ownership of a dog as recorded in a register may apply to the State Administrative Tribunal for a review of the decision.

[Section 16A inserted by No. 23 of 1987 s. 15; amended by No. 14 of 1996 s. 4; No. 24 of 1996 s. 16; No. 55 of 2004 s. 254.]

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[Notify me when this title changes.](#)[Full Act - PDF](#)[Copyright](#)**17. Refusal or cancellation of registration**

(1) Where a local government refuses to effect or renew the registration of a dog, or cancels a registration, the applicant or the registered owner as the case may be may apply to the State Administrative Tribunal for a review of the decision.

[(2) repealed]

(3) Where the State Administrative Tribunal affirms the decision of the local government, section 40(1) shall not apply and the State Administrative Tribunal shall make an order for the seizure of the dog and for its detention and destruction.

(3a) Notwithstanding subsection (3), the State Administrative Tribunal may suspend an order made under that subsection for a specified period and impose conditions relating to the keeping of the dog and may at or before the expiry of that period cancel the order under subsection (3) if it is satisfied that the dog will be kept without the likelihood of any contravention of this Act.

(4) If an application is not made under subsection (1) within the time fixed for the making of the application the local government may apply to a Justice of the Peace for an order authorising the seizure of the dog and where the Justice is satisfied that the applicant or the registered owner, as the case may be, of the dog has been given proper notice of the reason for the decision but has not applied for a review of the decision, the Justice may make an order for the seizure of the dog.

(5) If an application is made under subsection (1) but the proceeding on the application in the State Administrative Tribunal is withdrawn, dismissed or struck out under section 46, 47 or 48 of the *State Administrative Tribunal Act 2004*, a Justice of the Peace may, on the application of the local government, make an order for the seizure of the dog.

(6) If an order for the seizure of the dog is made under subsection (4) or (5), the local government may cause the dog to be seized and detained or destroyed or otherwise disposed of as though it had been found in a place in contravention of section 31, 32 or 33A and had not been claimed.

[Section 17 amended by No. 23 of 1987 s. 16; No. 14 of 1996 s. 4; No. 55 of 2004 s. 255.]

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(1) A registration tag shall —

(a) be of a durable material;

(b) be of a colour specified by the Minister under subsection (2); and

(c) contain such particulars as are prescribed.

(2) The Minister shall by order published in the *Gazette* in respect of a registration period, or an extended registration period referred to in section 15(2)(a)(ii), specify the colour of registration tags for that registration period or extended registration period.

(3) The Minister may, in like manner, amend or replace an order under subsection (2).

[Section 18 inserted by No. 23 of 1987 s. 17.]

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Where on the cancellation of the registration of a dog that was registered for an extended period, the person who was the registered owner returns the registration tag to the local government, the local government shall refund to the person such proportion of the registration fee as may be prescribed.

[Section 19 inserted by No. 23 of 1987 s. 18; amended by No. 14 of 1996 s. 4.]

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(1) A person who —

(a) wilfully inserts or omits, or permits to be inserted or omitted, in any application for the grant or renewal of a registration any matter or thing whatsoever contrary to, or for the purpose of concealing, the truth;

(b) whether on his own behalf or that of another person, for the purpose of obtaining any benefit or avoiding any penalty or obligation under this Act, wilfully makes or causes to be made any representation or statement which is false or misleading in any material particular or which he knows or ought reasonably to know is likely to deceive any person;

(c) keeps any dog wearing a registration tag —

[(i) deleted]

(ii) issued in respect of another dog; or

(iii) in respect of a registration which is cancelled;

or

(d) wrongfully removes or defaces any registration tag issued under this Act, or makes, uses, purchases or has in his possession any counterfeit or false certificate of registration or registration tag or any thing apparently intended to resemble or pass for the same,

commits an offence.

Penalty: Where the dog is a dangerous dog, \$4 000; otherwise, \$1 000.

(2) Where by regulations it is provided that a prescribed tattoo appearing on a dog may be accepted by a local government as proof that the dog has been sterilized, a person who applies that tattoo, or causes the same to be applied, to an unsterilized dog commits an offence.

Penalty: \$1 000.

[Section 20 amended by No. 23 of 1987 s. 19 and 44; No. 14 of 1996 s. 4; No. 24 of 1996 s. 16.]

KEEPING AND CONTROL OF CATS LOCAL LAW 1999

Under the powers conferred by the Local Government Act 1995 and under all other powers, the Council of the City of Stirling resolved on 6 July 1999 to make the following local law.

PART 1 - PRELIMINARY

Citation

1.1 This local law may be cited as the City of Stirling Keeping and Control of Cats Local Law 1999.

Objects

1.2 The objects of this local law are to –

- (a) control the number of cats kept on premises; and
- (b) protect native fauna,

particularly in relation to Cat Prohibited Areas and Fauna Protection Buffer Zones.

Definitions

1.3 In this local law unless the context otherwise requires –

"Act" means the Local Government Act 1995;

"applicant" means the occupier of premises who makes an application for a permit under clause 3.3;

"authorised person" means a person authorised by the City under section 9.10 of the Act to perform any of the functions of an authorised person under this local law;

"Cat Prohibited Area" means the land –

- (a) designated as such under clause 4.1; or
- (b) described in Schedule 1;

"cattery" means any premises where 4 or more cats are kept, boarded, trained or bred;

"CEO" means the chief executive officer of the City;

"City" means the City of Stirling;

"Council" means the council of the City;

"district" means the district of the City;

"Fauna Protection Buffer Zone" means the land extending 200m from the boundary of a Cat Prohibited Area and includes all of each of the properties through which the 200m limit passes.

"identified cat" means a cat which is identified under clause 2.2;

"keeper" in relation to a cat means each of the following persons –

- (a) the owner of the cat;
- (b) a person by whom the cat is ordinarily kept;
- (c) a person who has or appears to have immediate custody or control of the cat;
- (d) a person who keeps the cat, or has the cat in her or his possession for the time being;
- (e) a person who occupies any premises in which the cat is ordinarily kept or ordinarily permitted to live; or
- (f) the permit holder of a permit which relates to the cat;

"permit" means a permit issued by the City under this local law;

"permit holder" means a person who holds a valid permit under clause 3.6;

"premises" includes -

- (a) any land and any improvements used for any purpose; and
- (b) any part of any building in separate ownership or separate occupation, or any unit, flat, town house, duplex or apartment;

"Register" is defined in clause 5.1(1); and

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

Note: *The Interpretation Act 1984* contains various provisions which assist in the interpretation of this local law. For instance, in the absence of anything to the contrary, section 44(1) of that Act has the effect that a term used in this local law has the same meaning as is given to the term in the *Local Government Act 1995*.

Application

1.4 This local law applies throughout the district.

PART 2 - IDENTIFYING CATS

Keeper of a cat may identify it

2.1 A keeper of a cat may identify the cat under clause 2.2.

When a cat is identified

2.2 A cat is identified if –

- (a) the cat has a collar around its neck and the collar, or a tag securely attached to the collar, is marked with the current address or telephone number of a keeper of the cat; or
- (b) the cat has –
 - (i) a microchip implanted in its body containing, or containing information that may be used to obtain, the name of a keeper of the cat and a current address or telephone number of the keeper; or
 - (ii) the letter "M" tattooed on the inside of either of its ears.

No marking of "M" without microchip

2.3 (1) A person shall not –

- (a) tattoo or cause to be tattooed, the letter "M" on the inside of a cat's ear; or
- (b) mark the inside of a cat's ear, or cause the inside of a cat's ear to be marked, in a manner likely to be mistaken for the letter "M",
- (c) unless the cat has a microchip implanted in its body containing the information referred to in subclause (2)

(2) A microchip referred to in subclause (1) shall –

- (a) contain; or
- (b) contain information that may be used to obtain,

the name of a keeper of the cat and a current address or telephone number of the keeper.

No interference with identification

2.4 A person, other than a keeper of the cat or a person acting with a keeper's authority, shall not without reasonable excuse interfere with or remove the means by which a cat is identified under clause 2.2.

Address of keeper

2.5 For the purpose of giving a notice to a keeper of an identified cat, the keeper's address is to be taken to be that ascertained from the cat's collar or tag or on or obtained from the microchip.

PART 3 – PERMITS FOR KEEPING CATS

Interpretation

- 3.1 In this Part, and for the purposes of applying the definition of "cattery" in clause 1.3 –
"cat" does not include a cat less than 3 months old.

Cats for which permit is required

- 3.2 (1) A person shall not –
- (a) unless subclause (2) or (3) applies, keep 3 or more cats on any premises; or
 - (b) use any premises as a cattery,

except in accordance with a valid permit in relation to those premises.

(2) A person shall not keep more than 1 cat on any premises in a Fauna Protection Buffer Zone except in accordance with a valid permit in relation to those premises.

(3) A permit is not required under subclause (1)(a) or (2) if the premises concerned are–

- (a) a refuge of the RSPCA or of any other animal welfare organisation;
- (b) an animal pound which has been approved by the City;
- (c) a veterinary surgery; or
- (d) the subject of an exemption granted by the City.

Application for permit

3.3 An application for a permit under clause 3.2 shall be –

- (a) made by an occupier of premises in relation to those premises;
- (b) in a form approved by the City;
- (c) accompanied by any fee imposed and determined by the City under and in accordance with sections 6.16 to 6.19 of the Act; and
- (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.

Refusal to determine application

3.4 The City may refuse to determine an application for a permit if it is not made in accordance with clause 3.3.

Factors relevant to determination of application

3.5 In determining an application for a permit the City 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 structural suitability of any enclosure in which any cat is to be kept;
- (d) the likelihood of a cat causing nuisance, inconvenience, or annoyance to the occupiers of adjoining land;

- (e) the proximity of the premises to a Cat Prohibited Area or a Fauna Protection Buffer Zone;
- (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; and
- (h) such other factors which the City may consider to be relevant in the circumstances of the particular case.

Decision on application

3.6 (1) The City may -

- (a) approve an application for a permit subject to the conditions referred to in clause 3.7; or
- (b) refuse to approve an application for a permit.

(2) If the City approves an application under subclause (1)(a), then it shall issue to the applicant a permit in the form determined by the City.

(3) If the City refuses to approve an application under subclause (1)(b), then it is to advise the applicant accordingly in writing.

Conditions

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

- (a) each cat kept on the premises to which the permit relates shall be an identified cat;
- (b) each cat may be required to be contained on the premises unless under the control of a person; and
- (c) the premises shall be maintained in good order and in a clean and sanitary condition.

(2) In addition to the conditions referred to in subclause (1), every permit to keep 3 or more cats on premises or to keep more than one cat in a Fauna Protection Buffer Zone is issued subject to the following conditions -

- (a) adequate space shall be provided on the premises for the exercise of the cats; and
- (b) the permit holder shall not substitute or replace any cat once that cat-
 - (i) dies; or
 - (ii) is permanently removed from the premises,

without first obtaining the consent of the City.

(3) In addition to the conditions referred to in subclause (1), every permit to use premises as a cattery is issued subject to the following conditions -

- (a) any enclosure for the cats shall be structurally sound, have impervious flooring, be well lit and ventilated;

- (b) the premises shall have a feed room, wash area, isolation cages and maternity section;
- (c) materials used in structures are to be of a type approved by the City;
- (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) washing basins and running hot and cold water shall be available;
- (g) the maximum number of cats to be kept on the premises;
- (h) the permit holder shall keep an entry book 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 a keeper;
- (i) the permit holder shall produce the entry book for inspection on the request of an authorized person; and
- (j) enclosures shall be thoroughly cleaned each day and disinfected at least once a week.

(4) In addition to the conditions subject to which a permit is to be issued under this clause, a permit may be issued subject to such other conditions as the City considers appropriate, with such conditions being set in accordance with the objects of the local law.

Amended 225 of 2001

No contravention of condition

3.8 Subject to a defence under clause 10.4, a keeper shall not contravene a condition of a permit.

Amended 225 of 2001

Notice to keep cat on premises

3.9 (1) A person may give a complaint in the form of a declaration made under section 106 of the Evidence Act 1906 to the City –

- (a) alleging that at a particular date he or she saw a cat outside of premises where the cat is ordinarily kept or is ordinarily permitted to live;
- (b) alleging that the cat was not under the control of any person;
- (c) giving a description of the cat;
- (d) stating how he or she knows that the cat is ordinarily kept or is ordinarily permitted to live at the premises;
- (e) stating whether any other person saw the cat outside of the premises and, if so, giving details of that person; and
- (f) giving such other details as the City may require.

(2) Where the City receives a complaint under subclause (1), then the City shall give a permit holder, and may give any other keeper of the cat a notice to keep the cat on the premises except where it is under the control of a keeper, if -

- (a) the cat is the subject of a permit;
- (b) the premises are the subject of the same permit; and
- (c) 2 or more complaints are received from 2 or more occupiers of different premises.

Amended 225 of 2001

(3) If a keeper of a cat is given a notice under subclause (2), then every keeper of the cat is to be taken to have been given the notice.

(4) Subject to a defence under clause 10.4, where a notice has been given to a keeper of a cat under subclause (2), if the cat is outside of the premises at any time subsequent to the issuing of the notice and is not under the control of a keeper, then every keeper of the cat at that time commits an offence.

Amended 225 of 2001

Note: A statutory declaration may be made before a Justice of the Peace or by virtue of the *Declarations and Attestations Act 1913*, before the persons listed in the Schedule to that Act, including the CEO and the Deputy CEO of the City, a Councillor of the City, a teacher, a solicitor, a police officer, a medical practitioner, a pharmaceutical chemist and a real estate agent.

Duration of permit

3.10 Unless otherwise specified in a condition on a permit, a permit commences on the date of issue and is valid unless and until it is revoked.

Revocation

3.11 The City may revoke a permit if the permit holder fails to observe any provision of this local law or a condition of a permit.

Permit not transferable

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

PART 4 - CAT PROHIBITED AREAS

Designation of Cat Prohibited Area

4.1 (1) The City may designate land as an area on which cats are prohibited from entering or remaining by –

- (a) reviewing the local law including formal public consultation, and
- (b) including the land in Schedule 1.

(2) In designating land for the purpose of subclause (1), the City may have regard to the following matters in relation to the land –

- (a) whether the land is greater than 1 hectare in area;
- (b) the nature of the fauna on the land;
- (c) the nature of the vegetation on the land;
- (d) whether the land has been recognised by any authority as having vegetation or fauna of local, regional or State significance; and
- (e) whether the land is land to which the *Conservation and Land Management Act 1984* applies under section 5 of that Act.

Cat not to be in Cat Prohibited Area

4.2 (1) A cat shall not be in a Cat Prohibited Area.

(2) If a cat is at any time in a Cat Prohibited Area, subject to a defence under clause 10.4, every keeper of the cat at that time commits an offence.

Amended 225 of 2001

PART 5 - REMOVAL AND IMPOUNDING OF CATS

Division 1 - Register of removed and impounded cats

Register

- 5.1 (1) The City is to keep a record of removed and impounded cats (the "Register").
- (2) The Register is to contain the following information about each impounded cat -
- (a) 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 its keeper;
 - (d) the date and time of removal;
 - (e) the name of the person who removed the cat;
 - (f) the reason for the removal; and
 - (g) the date of release or disposal.

Application of sections 5.94 and 5.95 of the Act

5.2 The Register is taken to be information under section 5.94(u)(i) of the Act for the purpose of applying sections 5.94 and 5.95 of the Act to the Register.

Note: Sections 5.94 and 5.95 of the Act allow the public to inspect certain documents, but qualify the circumstances in which they may do so and the state in which the documents must be produced. For instance, the Register does not need to be current at the time of inspection.

Division 2 – Destruction of cat container

No destruction of container for cats

5.3 A person shall not destroy, break into, damage, or in any other way interfere with any container used for the purpose of catching, holding or conveying cats.

Division 3 - Effect of payment of impounding expenses

Effect of payment of impounding expenses

5.4 The payment of any costs by a keeper in respect of the removing, impounding and keeping of a cat does not relieve the keeper of any liability to a penalty for an offence against any provision of this local law.

Note: The impounding of animals is dealt with in Part 3, Division 3, Subdivision 4 of the *Local Government Act 1995* and regulation 29 of the *Local Government (Functions and General) Regulations 1996*.

PART 6 - DESTRUCTION OF CATS

Request to destroy cat

- 6.1 (1) A keeper of a cat may request the City to destroy the cat.
- (2) The request under subclause (1) must –
- (a) be in the form determined by the City;
 - (b) be signed by the person making the request; and
 - (c) state –
 - (i) that the person making the request is a keeper of the cat;
 - (ii) the name and residential address of the keeper;
 - (iii) a description of the cat including its breed, colour, sex and age;
 - (iv) the reason for requesting the destruction; and
 - (v) that the person making the request indemnifies the City in respect of any costs or liabilities incurred by the City arising from the destruction of the cat.
- (3) The City is to destroy a cat where a request is made in accordance with subclause (2).

Fee for destruction

- 6.2 The City may charge a keeper a fee imposed and determined under and in accordance with sections 6.16 to 6.19 of the Act for the destruction of a cat under clause 6.1.

PART 7 - ABANDONMENT OF CATS

No abandonment

7.1 A person shall not abandon a cat.

Delivery to an authorised person not abandonment

7.2 A person who delivers a cat into the custody of an authorised person is to be taken not to have abandoned the cat.

PART 8 - EVIDENCE

Averment that person a keeper

8.1 In proceedings for an offence against any provision of this local law an averment in the complaint that at a specified time a person was a keeper of the cat is evidence of that fact in the absence of proof to the contrary.

Cat taken to not be contained on premises

8.2 In proceedings for a breach of clause 3.7(1)(b), where there is evidence that a cat has been outside the relevant premises when it was not under the control of a person, on more than one occasion, then the cat is to be taken to not be contained on the premises.

PART 9 - OBJECTIONS AND APPEALS

Objection and appeal rights

9.1 A person adversely affected by a decision made by the City under Part 3, including a decision to refuse to approve an application for a permit or to revoke a permit, may be entitled to object or appeal against the decision under the Act.

Note: Objection and appeal rights are dealt with in Part 9, Division 1 of the Act and in regulations 33 and 34 of the *Local Government (Functions and General) Regulations 1996*.

PART 10 - OFFENCES, DEFENCE AND PENALTIES

Division 1 - General

Offences

10.1 (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) 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.

Amended 225 of 2001

Division 2 – Infringement notices and modified penalties

Prescribed offences

10.2 (1) An offence against a clause specified in Schedule 2 is a prescribed offence for the purposes of section 9.16(1) of the Act.

(2) The amount appearing in the fourth column of Schedule 2 adjacent to a clause is the modified penalty payable in respect of an offence against that clause if the offence does not occur in a Fauna Protection Buffer Zone or a Cat Prohibited Area.

(3) The amount appearing in the fifth column of Schedule 2 adjacent to a clause is the modified penalty payable in respect of an offence against that clause if the offence occurs in a Fauna Protection Buffer Zone or a Cat Prohibited Area.

Forms

10.3 (1) An infringement notice given under section 9.16(1) of the Act is to be in the form of Schedule 3.

(2) A notice sent under section 9.20 of the Act withdrawing an infringement notice is to be in the form of Schedule 4.

Note: The issue of infringement notices, their withdrawal and the effect of payment of a modified penalty are dealt with in Subdivision 2 of Division 2 of Part 9 of the *Local Government Act 1995*.

Division 3 – Defence

10.4 It is a defence to a charge of an offence of contravening clause 3.8, 3.9(4), 4.2 if the keeper charged satisfies the court that at the material time some other person (whom he shall identify) over the age of 18 years was the keeper of the cat(s).

Amended 225 of 2001

SCHEDULE 1

Cat Prohibited Areas

1. Star Swamp
2. Carine Open Space
3. Gwelup Open Space
4. Trigg Bushland
5. Herdsman Lake
6. Jackadder Lake
7. Dianella Regional Open Space
8. Hamersley Golf Course
9. Cottonwood Crescent Bushland
10. Mirrabooka Open Space
11. Beach Reserves

[Reserve No's or further identifying details are to be specified.]

SCHEDULE 2

Modified Penalties

ITEM No	CLAUSE No	NATURE OF OFFENCE	MODIFIED PENALTY	MODIFIED PENALTY – within Cat Prohibited Area or Fauna Protection Buffer Zone
1.	3.2(1)(a)	Failure of an occupier to hold a permit	\$ 250.00	\$ 500.00
2.	3.2(1)(b)	Use of premises as cattery without permit	250.00	500.00
3.	3.8	Breach of a condition of a permit	250.00	500.00
4.	3.9(4)	Breach of notice to keep a cat on premises	250.00	500.00
5.	4.2	Cat in Cat Prohibited Area		500.00
6.	7.1	Abandonment of cat	250.00	500.00

SCHEDULE 3

**Local Government Act 1995
City of Stirling
Keeping and Control of Cats Local Law 1999**

INFRINGEMENT NOTICE

Serial No.
Date/...../.....

To: (1)

of: (2)

It is alleged that on/...../..... at (3)am/pm

at (4)

you committed the following offence –

.....

contrary to clause of the City of Stirling Keeping and Control of Cats Local Law 1999.

The modified penalty for the offence is \$

If you do not wish to have a complaint of the alleged offence heard and determined by a court, the amount of the modified penalty must be paid within a period of 28 days after the giving of this notice. The modified penalty may be paid by either posting this form together with the amount of the modified penalty to the Chief Executive Officer of the City of Stirling at City Administrative Centre, Civic Place, Stirling or by paying the amount of the modified penalty to an authorised person of the City of Stirling at City Administrative Centre, Civic Place, Stirling between the hours of 9am to 4pm Monday to Friday.

If you take no action this infringement notice may be registered with the Fines Enforcement Registry after which your driver's licence or any vehicle licence held by you may be suspended. If the matter is registered with the Registry additional costs will also be payable.

If the above address is not your current address, or if you change your address, it is important that you advise us immediately. Failure to do so may result in your driver's licence or any vehicle licence you hold being suspended without your knowledge.

Name and title of authorised person giving the notice

.....

Signature:

Insert

(1) *Name of alleged offender*
(2) *Address of alleged offender*

(3) *Time at which offence allegedly committed*
(4) *Place at which offence allegedly committed*

SCHEDULE 4

Local Government Act 1995
City of Stirling
Keeping and Control of Cats Local Law 1999

NOTICE OF WITHDRAWAL OF INFRINGEMENT NOTICE

Serial No.

Date/...../.....

To: (1)

of: (2)

Infringement Notice No..... dated/...../..... for the alleged offence of
..... has been withdrawn.

The modified penalty of \$

- * has been paid and a refund is enclosed.
- * has not been paid and should not be paid.

* Delete as appropriate

Name and title of authorised person giving the notice

.....

Signature :

Insert

- (1) *Name of alleged offender to whom infringement notice was given*
- (2) *Address of alleged offender*

Dated this 31st day of December, 1999.

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

.....
Mayor

.....
Chief Executive Officer