

**CAT ACT 2011
LOCAL GOVERNMENT ACT 1995
CITY OF BUNBURY**

**CONSOLIDATED
CATS LOCAL LAW 2018
CATS AMENDMENT LOCAL LAW 2019**

Under the powers conferred by the *Cat Act 2011*, the *Local Government Act 1995* and by all other powers enabling it, the Council of the City of Bunbury resolved on 11 December 2018 to make the following local law.

Part 1 – Preliminary

1.1 Citation

This local law may be cited as the *City of Bunbury Cats Local Law 2018*.

1.2 Commencement

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

1.3 Application

This local law applies throughout the district.

1.4 Definitions

In this local law unless the context otherwise requires –

Act means the *Cat Act 2011*;

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

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

cat means an animal of the species *felis catus* or a hybrid of that species;

cat management facility means –

- (a) a facility operated by a local government that is, or may be, used for keeping cats;
- (b) a facility for keeping cats that is operated by a person or body prescribed; or
- (c) a facility for keeping cats that is operated by a person or body approved in writing by a local government;

cattery means any premises where more than 3 cats are kept, bred, boarded, housed or trained temporarily, whether for profit or otherwise, and where the occupier of the premises is not the ordinary owner of the cats;

CEO means the Chief Executive Officer of the local government;

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 one of a group of two 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 City of Bunbury;

multiple dwelling (often called flats, apartments or units) means a dwelling in a group of more than one 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 other property on the land affected by the interference;

owner has the meaning given to it in the Act;

penalty unit has the meaning given in the *City of Bunbury Penalty Units Local Law 2018*;

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

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

premises includes the following –

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

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

Schedule means a schedule to this local law;

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

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

Part 2 – Cat control

2.1 Cat not to be a nuisance

- (1) An owner shall not allow a cat to be or create a nuisance.
- (2) Where in the opinion of an authorised person, or where the local government receives signed complaints in the form of Schedule 2 from two or more persons each of whom occupy different premises that a cat is creating a nuisance, the local government may give written 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 in the notice which period 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.

2.2 Cat prohibited areas

- (1) A cat shall not be in the places specified in Schedule 4 at any time, whether or not under effective control.
- (2) If a cat is in a Cat Prohibited Area in contravention of subclause (1), then the owner of the cat commits an offence unless the owner of the cat has first obtained written authorisation from the local government.

Part 3 – Permits for keeping cats

3.1 Interpretation

In this part, and for the purposes of applying the definition of ‘cattery’, *cat* does not include a cat less than 6 months old.

3.2 Cats for which a permit is required

- (1) Subject to subclause (2) a person is required to have a permit to –
 - (a) keep more than 2 cats on any premises; or
 - (b) use any premises as a cattery or cat management facility.
- (2) A permit is not required under subclause (1) if the premises concerned are –
 - (a) a refuge of the RSPCA or any other body prescribed in regulation 4 of the *Cat Regulations 2012*;
 - (b) a cat management facility which has been approved by the local government;
 - (c) a veterinary surgery; or
 - (d) a pet shop.

3.3 Application for permit

- (1) An application for a permit under clause 3.2 shall be –
 - (a) made in writing by an occupier of the premises in relation to those premises;
 - (b) in a form approved by the local government, describing and specifying the number of cats to be kept on the premises;
 - (c) accompanied by a brief reason and justification for the request;
 - (d) accompanied by the plans of the premises to which the application relates in the form determined by the local government from time to time;
 - (e) accompanied by the consent in writing of the owner of the premises where the occupier is not the owner of the premises to which the application relates; and
 - (f) accompanied by the application fee for the permit determined by the local government from time to time.

3.4 Refusal to determine application

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

3.5 Factors relevant to the determination of application

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

before determining the application for the permit.
- (3) The local government may specify the extent of consultation with nearby residents, as specified in subclause 3.5(2)(a) and may specify which properties should be consulted.

3.6 Decision on application

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

3.7 Conditions

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

3.8 Compliance with conditions of permit

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

3.9 Duration of a permit

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

3.10 Revocation

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

3.11 Permit not transferable

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

3.12 Permit to be kept at premises and available for view

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

Part 4 – Miscellaneous

4.1 Giving of an infringement notice

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

Part 5 – Objections and appeals

5.1 Objections and appeal rights

Any person who is aggrieved by the conditions imposed in relation to a permit, the revocation of a permit, or by the refusal of the local government to grant a permit may object or appeal against the decision under Division 1 of Part 9 of the *Local Government Act 1995*.

Part 6 – Offences and penalties

6.1 Offences

- (1) Any person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.
- (2) Unless otherwise specified, any person who commits an offence under this local law is liable on conviction, to a penalty not exceeding \$5,000, and if the offence is of a continuing nature, to a

further penalty not exceeding a fine of \$500 in respect of each day or part of a day during which the offence has continued.

6.2 Prescribed offences

- (1) An offence against a clause specified in Schedule 3 is a prescribed offence for the purposes of section 63 of the Act.
- (2) If this local law expresses a modified penalty as a number of penalty units, the monetary value of the modified penalty is the number of dollars obtained by multiplying the value of the penalty unit, as specified in the City of Bunbury Penalty Units Local Law 2018, by the number of penalty units specified in this local law.

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 of an offence against this local law may be given under section 62 of the Act and is to be in the form of Schedule 1, Form 6 of the *Cat Regulations 2012*.
- (3) A notice sent under section 65 of the Act withdrawing an infringement notice is to be in the form of Schedule 1, Form 7 of the *Cat Regulations 2012*.

Schedule 1 – Additional conditions applicable to particular permits

[Clause 3.7]

A. Permit to keep more than 2 cats

Additional conditions:

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

B. Permit to use premises as a Cattery or Cat Management Facility

Additional conditions:

- (1) All building enclosures must be structurally sound, have impervious flooring, be well lit and ventilated and otherwise comply with all legislative requirements.
- (2) There is to be a feed room, wash area, isolation cages and maternity section.
- (3) Materials used in structures are to be approved by the local government.
- (4) The internal surfaces of walls are, where possible, to be smooth, free from cracks, crevices and other defects.
- (5) All fixtures, fittings and appliances are to be capable of being easily cleaned, resistant to corrosion and constructed to prevent the harbourage of vermin.
- (6) Washing basins with a minimum of running cold water are to be available to the satisfaction of the local government.
- (7) The maximum number of cats to be kept on the premises stated on the permit is not to be exceeded.
- (8) A register is to be kept recording in respect of each cat the –
 - (a) date of admission;
 - (b) date of departure;
 - (c) breed, age, colour and sex; and
 - (d) name and residential address of the owner.
- (9) The register is to be made available for inspection on the request of an authorised person.
- (10) Enclosures are to be thoroughly cleaned each day and disinfected at least once a week to minimise disease.
- (11) Any sick or ailing cat is to be removed from the premises or transferred to an isolation cage separated from other cats kept on the premises.
- (12) Any other matter which in the opinion of the local government is deemed necessary for the health and wellbeing of any cat, or person, or adjoining premises or the amenity of the area (or any part thereof).

Schedule 2

[Clause 2.1]

City of Bunbury – Cats Local Law 2018

Nuisance 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 _____

request the City of Bunbury to institute proceedings, if the nuisance does not stop, and undertake;

- (a) to give full information to the City of Bunbury 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 3 – Prescribed offences

[Clause 6.2]

Item No.	Clause No.	Nature of Offence	Penalty Units
1	2.1	Cat causing a nuisance	20
2	2.2	Cat in prohibited area	20
3	3.2	Failure of a person to hold a permit when required	20
4	3.8	Breach of a condition of a permit	20

Schedule 4 – Cat prohibited areas

[Clause 2.2]

Places where cats are prohibited:

Common Name	Physical Boundaries	Description
Big Swamp Reserve	Prince Phillip Drive and Tuart Street	Wetlands and vegetation, including boardwalks, in the area contained within the concrete footpath around the perimeter of the Big Swamp Reserve.
Maidens Reserve	Ocean Drive, Maiden Park Road, Nyabing Road, Lefroy Place, Costello Court, Dermer Place, and Collinsville Way	Eastern Boundary: all bushland along physical boundaries and rear of residential properties on these roads. Northern extent: Car park on Ocean Drive at Hastie Street/Ocean Drive intersection. Southern Extent: Local government boundary adjacent to Water Corporation site. Western Extent: High tide mark along beach.
Manea Park	Bussell Highway, Somerville Drive, Peppermint Boulevard, Malaleuca Drive, Lakeside Drive, Robertson Drive, Halifax Drive, Worcestor Bend, South West Highway, Bunbury Airport, and Centenary Road	All bushland along physical boundaries and rear of residential and industrial properties on these roads.
Hartley Anderson Park	Crowea Street, Sturt Street, Parkdale Avenue, Ocean Drive, Kalari Rise, and Mindalong Close	All bushland along physical boundaries and rear of residential properties on these roads.
Hay Park	Bussell Highway, Rotary Avenue, and Fire Brigade Running Track	All bushland within boundaries of the listed roads.
Loughton Park	Brittain Road, Palmer Crescent, Armanta Drive, Young Close, and Godwin Street	All bushland along physical boundaries and rear of residential and industrial properties on these roads.
Katherine Chauhan Reserve	Parade Road, Westwood Street, Sweeting Way, and Guile Fairway	All bushland along physical boundaries and rear of residential properties on these roads.
Brother Valentine Flynn Reserve	Dunstan Street, Remilles Street, Nile Place, Mangles Street, Ashbank Green, Ione Street, Mansfield Street, and West Road	All bushland along physical boundaries and rear of residential properties on these roads.
Irwin Reserve	Irwin Street, Macnish Close, Swansen Place, Sherry Place, and Roberts Crescent	All bushland along physical boundaries and rear of residential properties on these roads.
Horseshoe Lake Reserve	Sandridge Road, Bunning Boulevard, and Fairway Court	All bushland and parkland within boundaries of the listed roads.
Dodson Lake Reserve	Dodson Road, Eades Street, South Western Highway, and the Railway	All bushland and parkland within boundaries of the listed roads.
Charterhouse Reserve	Charterhouse Close, Flynn Street, and Robertson Drive	All bushland and parkland within boundaries of the listed roads.

Dated 11 December 2018

The Common Seal of the City of Bunbury)
was affixed by authority of a resolution)
of the City in the presence of-)

GARY BRENNAN, Mayor

MAL OSBORNE, Chief Executive Officer