

LOCAL GOVERNMENT ACT 1995

CAT ACT 2011

City of Bayswater

KEEPING AND CONTROL OF CATS LOCAL LAW 2022

Under the powers conferred by the *Cat Act 2011* and the *Local Government Act 1995* and under all other powers enabling it, the Council of the City of Bayswater resolved on 23 August 2022 to make the following local law.

PART 1—PRELIMINARY

1.1 Repeal

The *City of Bayswater Keeping and Control of Cats Local Law 2016* as published in the *Government Gazette* on 14 June 2016 is repealed.

1.2 Citation

This local law may be cited as the *City of Bayswater Keeping and Control of Cats Local Law 2022*.

1.3 Commencement

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

1.4 Application

This local law applies throughout the district.

1.5 Definitions

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

Act means the *Cat Act 2011*;

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

authorised person means a person appointed by the local government to perform 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; or
- (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;

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

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

CEO means the Chief Executive Officer of the local government;

Council means the Council 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 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 Bayswater;

multiple dwelling 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 an activity or condition which is harmful or annoying and which gives rise to legal liability.

owner, in relation to a cat, means any of these persons-

- (a) in the case of a cat that is registered, the registered owner of the cat; or
- (b) in the case of a cat that is not registered, a person who, or an owner of a business or organisation that, ordinarily keeps and cares for the cat; or

- (c) if a person referred to in paragraph (b) is a child under 18 years of age, that child's parent or guardian.

permit means a permit issued by the local government under clause 3.6

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

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

single dwelling means a house that stands alone on its own parcel of land.

(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, 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—CAT CONTROL

2.1 Cat 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, 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 Other Places

- (1) A cat shall not be in a public place unless the cat is, in the opinion of an Authorised Person, under effective control.
- (2) If a cat is at any time, in contravention of clause 2.2 (1),
- (a) The keeper of the cat commits an offence; and
- (b) An authorised person may seize and impound the cat and deal with the cat pursuant to the Act.

2.3 Cats in Prohibited Areas

- (1) A cat shall not be in any cat prohibited area as listed on Schedule 3.
- (2) If a cat is at any time in a place in contravention of subclause 2.3(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.

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—
- (a) to keep more than 3 cats on any single dwelling or grouped dwelling premises to a maximum of six (6);
- (b) to keep more than 2 cats on any multiple dwelling property to a maximum of six (6); or
- (c) to use any premises as a cattery.
- (2) A permit is not required under subclause (1) if the premises concerned are—
- (a) a refuge of the RSPCA or any other animal welfare organisation;
- (b) a cat management facility which has been approved by the local government;
- (c) a veterinary clinic or hospital; or
- (d) a pet shop.
- (3) A person who keeps more than the standard number of cats on a prescribed premises without approval commits an offence.

3.3 Application for permit

An application for a permit under clause 3.2 shall be—

- (a) be made in writing by an occupier of premises in relation to those premises;
- (b) in a form approved by the local government, describing and specifying the number of cats to be kept on the premises;
- (c) accompanied by a brief reason and justification for the request;
- (d) accompanied by the plans of the premises to which the application relates to the specification and satisfaction of the local government;
- (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;
- (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 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 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 a 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 environment 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 require an applicant to—
 - (a) consult with other nearby landowners; and
 - (b) advise other adjoining landowners that they may make submissions to the local government on the application for the permit within 14 days of receiving that advice, before determining the application for the permit.

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 considers 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 to the applicant a permit in the form determined by the CEO.
- (3) If the local government refuses to approve an application under subclause (1), then it 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.
 - (f) 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 the cat—
 - (i) dies; or
 - (ii) is permanently removed from the premises.

(2) In addition to the conditions subject to which a permit is to be issued under this clause, a permit may be issued subject to other conditions, as the local government considers appropriate.

(3) The permit holder who fails to comply with a condition of a permit commits an offence.

3.8 Duration of permit

Unless otherwise specified, in a condition on a permit, a permit commences on the date of issue until—

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

3.9 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.

3.10 Permit not transferable

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

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

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

PART 4—MISCELLANEOUS

4.1 Giving of an Infringement notice

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

PART 6—OFFENCES, DEFENCE 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 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 2 is a prescribed offence for the purposes of section 62(1) of the Act.
- (2) The amount appearing directly opposite each such offence is the modified penalty in relation to that offence.

6.3 Forms

- (1) The issuing of infringement notices, their withdrawal and the payment of modified penalties dealt with in Division 4 of Part 4 of the Act.
- (2) An infringement notice given under section 62 of the Act is to be in the form of Form 6 of Schedule 1 of the *Cat Regulations 2012*.
- (3) A notice sent under section 65 of the Act withdrawing an infringement notice is to be in the form of Form 7 of Schedule 1 of the *Cat Regulations 2012*.

SCHEDULE 1—ADDITIONAL CONDITIONS APPLICABLE TO PARTICULAR PERMITS FOR GROUPED, MULTIPLE AND SINGLE DWELLINGS

[Clause 3.7]

A. Permit to keep more than prescribed number of cats

Additional conditions

- (1) The written consent of the owner/occupier to the application for a permit of the adjoining owner/occupier on the same level has been obtained;
- (2) Without the consent of the local government, the permit holder will not substitute once that cat—
 - (a) dies;
 - (b) is permanently removed from the premises.

B. Permit to use premises as a cattery

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) Wash basin with the minimum of cold water to be available.
- (7) The maximum number of cats to be kept on the premises stated on the permit is not to be exceeded.
- (8) An entry book 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) the name and residential address of the keeper;
- (9) The entry book 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) No sick or ailing cat to be 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—MODIFIED PENALTIES

[Clause 6.2]

Item	Clause	Offence	Modified Penalty
1	2.1(4)	Cat causing a nuisance	\$250
2	2.2(1)	Cats in Other Places	\$250
3	2.3(1)	Cat in prohibited areas	\$250
4	3.2(1)	Keeping more than prescribed number of cats without a permit	\$250
5	3.2(1)(c)	Keeping a cattery without a permit	\$350
6	3.7(3)	Any other offence	\$250
7	3.9	Failure to comply with permit condition	\$250

SCHEDULE 3—CAT PROHIBITED AREAS

[Clause 2.3]

No.	Common Name	Location	Lot Number	Reserve Number
1	Addlestone Reserve	60 Embleton Avenue, Embleton	-	-
2	Arbor Park	1 Cassia Way, Morley	R39284	R39284
3	Baigup Wetlands	134 Garrett Road, Bayswater	821	-
4	Bardon Park	18 Fourth Avenue, Maylands	R26397	R26397
5	Bath Street Reserve	3 Swan View Terrace, Maylands	R33202	R33202
6	Berringa Park	2 Mary Street, Maylands	R34262	R3462
7	Bohemia Park	11 Eaton Place, Noranda	R35760	R35760
8	Browns Lake Reserve	211 Coode Street, Bedford	50	-
9	Claughton Reserve	89 Katanning Street, Bayswater	R49440	R49440
10	Crimea Park (Wetland)	2 McArthur Street, Morley	R29473	R29473
11	Eric Singleton Bird Sanctuary	129 King William Street, Bayswater	8	-
12	Eric Singleton Bird Sanctuary West	124 King William Street, Bayswater	50	-

No.	Common Name	Location	Lot Number	Reserve Number
13	Evans Place Reserve	10 Evans Place, Bayswater	R28363	R28363
14	Feredy Reserve	7 Feredy Street, Embleton	R26282	R26282
15	Gobba Lake	65 Wyatt Road, Bayswater	501	-
16	Hillcrest Living Stream	Drake Street, Bayswater	52	-
17	Hillcrest Reserve	100 Coode Street, Bayswater	50	R24336
18	Hinds Reserve	130 Milne Street, Bayswater	61	-
19	Houghton Park	1 Purley Street, Bayswater	559	-
20	Ingles Reserve	3 Ashfield Place, Bayswater	R51182	R51182
21	Jakobsons Living Stream	Walter Road West, Morley	R28250	R28250
22	Lightning Park	30 Della Road, Noranda	R46880	R46880
23	Lightning Swamp	33 Della Road, Noranda	R46880	R46880
24	Malaga Drive Bushland	Malaga Drive, Noranda	-	-
25	Maxwell Reserve	2 Maxwell Avenue, Noranda	101	-
26	Maylands Foreshore	48 Clarkson Road, Maylands and 2 Clarkson Road, Maylands	R9323 R33966	R9323 R33966
27	Maylands Jetty Foreshore	18 Fourth Avenue East, Maylands	-	-
28	Maylands Lakes (Lake Brearley and Lake Bungana)	Lake Brearley—Tranby Road, Maylands Lake Bungana—De Havilland View, Maylands	R46293 R46177	R46293 R46177
29	Maylands Samphires	Clarkson Road, Maylands	R48463	R48463
30	McPherson Bushland	20 McPherson Avenue, Noranda	R39364	R39364
31	Newington Reserve	14 Marconi Street, Morley	R39763	R39763
32	Nora Hughes Park (Wetland)	2 Drake Street, Morley	R32362	R32362
33	Patterson Living Stream	1 Patterson Street, Bayswater	R33305	R33305
34	Peters Place Reserve (Wetland)	15 Peters Place, Morley	R4324	R4324
35	Riverside Gardens	127 King William Street, Bayswater	208	-
36	Russell Street Park	95 Russell Street, Morley	1142	-
37	Shadwell Reserve	33 Shadwell Way, Morley	R42714	R42714
38	Strutt Reserve	21 Strutt Way, Noranda	R37139	R37139
39	Swan Lake Reserve	12B Nolan Place, Bayswater	R42128	R42128
40	Tranby Reserve/Peninsula Farm	2 Hardey Road, Maylands	R48463	R48463
41	Weld Square Reserve (Living Stream)	26 Fitzgerald Road, Morley	R43327	R43327
42	Wright Crescent Wetlands (Riverside Gardens, East).	28 Wright Crescent, Bayswater	2	-

Dated: 19 September 2022.

The common seal of the City of Bayswater was hereto affixed by the authority of a resolution of the Council in the presence of—

JEREMY EDWARDS, Chief Executive Officer.
FILOMENA PIFFARETTI, Mayor.